

WESTERN HEMISPHERE

ANTIGUA AND BARBUDA

Antigua and Barbuda is a multiparty, parliamentary democracy with a population of approximately 76 thousand. In the 2004 parliamentary elections, which observers described as generally free and fair, the United Progressive Party (UPP) defeated the ruling Antigua Labour Party (ALP), and Baldwin Spencer became prime minister. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, problems remained in a few areas:

- allegations of police brutality
- poor prison conditions
- libel suits brought by officials against critical journalists or media outlets
- high-level corruption
- societal discrimination and violence against women
- sexual abuse of children

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the authorities generally respected these prohibitions in practice. Nonetheless, there were occasional reports of police brutality and threatening behavior and allegations of abuse by prison guards.

In June the family of Antonio Smith alleged that after the police detained the 17-year-old for questioning, they beat him and then nearly shot him after Smith attempted to escape. Also in June the family of Lucien Joseph alleged that the police shot him and then beat him after he fell to the ground. In July police reportedly beat 17-year-old Brian Spencer at a police station, then shot him in the back of the leg after he attempted to escape. These incidents were still under investigation at year's end.

Prison and Detention Center Conditions.—Prison conditions were poor. Her Majesty's Prison, the country's only prison, held 194 inmates (188 men and 6 women). The prison did not have toilet facilities, and slop pails were used in all 122 cells. Prison staff complained anonymously to the press about the poor conditions, including a reported increase in the number of prisoners who had HIV/AIDS and charges that certain inmates were made into "sex slaves" by other prisoners.

Prison overcrowding was attributed, in part, to a law that went into effect in 2004 that limited the ability of magistrates to grant bail to those accused of certain offenses. This resulted in an increase in the number of people held on remand while awaiting trial. In May 42 persons were reportedly being held on remand. According to the prison superintendent, a shortage of space in the prison required placing some of those held on remand with convicted prisoners.

Female prisoners were held in a separate section and were not subject to the same problems encountered in the men's prison.

Juveniles were held with adult inmates. In April the minister of justice complained publicly that keeping juvenile offenders with the adult prison population both broke the prison's own rules and placed the juveniles at risk.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—Security forces consist of a police force and the small Antigua and Barbuda Defense Force. The police force comprises 690 officers, 125 of whom are part of the country's fire brigade. In May amid rumors that the new administration wanted to clean up the police force, the prime minister ordered 20 officers, including the former police commissioner, to take forced leave. The government named a new police commissioner at that time. No official explanation was provided for these actions.

Arrest and Detention.—The law permits police to arrest without warrant persons suspected of committing a crime. Criminal defendants have the right to a prompt judicial determination of the legality of their detention. The police must bring detainees before a court within 48 hours of arrest or detention. Criminal detainees were allowed prompt access to counsel and family members. The bail system was recently modified to require those accused of more serious crimes to appeal to the High Court for bail, taking this responsibility away from the lower court magistrates.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The first level is the magistrate's court, followed by the Court of Appeals and the High Court. The constitution designates the Privy Council in London as the final court of appeal, which always is employed in the case of death sentences.

Trial Procedures.—The law provides that criminal defendants should receive a fair, open, and public trial. Trials are by jury. Defendants enjoy a presumption of innocence, timely access to counsel, may confront or question witnesses, and have the right to appeal. In capital cases only, the government provides legal assistance at public expense to persons without the means to retain a private attorney. Courts may reach verdicts quickly, with some cases coming to conclusion in a matter of days.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these provisions in practice.

Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinion. During the year, however, concerns were raised about possible government efforts to influence news reporting on the government-owned broadcasting service. Members of the government also made statements and took actions that potentially could limit freedom of speech.

The International Press Institute (IPI), in its 2004 year-end report, criticized the government for appearing to seek to influence the government-owned media. The IPI also noted there was continued tension between the government and certain media outlets, particularly ZDK Radio, which is owned by the family of Lester Bird, the former prime minister and leader of the opposition ALP. In October 2004 ZDK Radio was taken off the air briefly for not paying its overdue electricity bill of \$49 thousand (EC\$132 thousand). The ALP complained that the station was taken off the air for politically motivated reasons.

In February a journalist at the government-owned ABS Television criticized the minister of information for attempting to censor the station's news broadcasts. In October the Inter-American Press Association charged that ABS continued to be "a public relations tool for the ruling party."

During the year members of the government took legal action against the media for defamation. In January the minister of information filed suit against ZDK Radio, charging the station with slander and defamation for statements made on one of its talk radio programs. In June Prime Minister Spencer threatened to take legal action to curb what he characterized as the use of talk radio programs for slander and said he would direct the attorney general to "strengthen legislation to deal with sedition and terrorism." In September the director of public prosecutions (DPP) charged Lennox Linton of Observer Radio with defamation for verbally ridiculing the DPP's office on the air. The Association of Caribbean Media Workers criticized government actions to limit press freedoms throughout the year.

In 2004 the former government cited violations of the Telecommunications Act to revoke the license held by the owners of Observer Radio to operate satellite transmission equipment and seized the equipment. At year's end the matter was still before the courts, and the equipment had not been returned.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The police generally issued the required permits for public meetings but sometimes denied them to avert violent confrontations.

The opposition ALP attempted to hold a march protesting several issues during the first week of November, but was denied permission, because the police stated they were unable to provide adequate security as the planned march coincided with the annual independence celebration. The ALP was allowed to stage its protest later in the month.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not use it in practice.

Protection of Refugees.—Although the country is a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a system for providing protection to refugees or asylum seekers. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not routinely grant refugee status or asylum. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In the 2004 elections, the opposition UPP won 12 of 17 seats in the House of Representatives and 55 percent of the popular vote. Members of the Commonwealth observer group reported that the elections were free and fair. UPP leader Baldwin Spencer was sworn in as prime minister in March 2004, replacing Lester Bird, whose ALP had held power continuously since 1976.

The Directorate of Gender Affairs participated in workshops to encourage women to become active in politics. Voters elected 1 woman to the 17-seat House of Representatives; there were 2 women appointed to the 17-seat Senate. In addition the speaker of the House of Representatives and the president of the Senate, both appointed positions, were women. There were no women in the cabinet, although two women served as ministers of state.

Government Corruption and Transparency.—High-level corruption was a problem, particularly during the former ALP administration. The Spencer administration began numerous high profile corruption investigations following the 2004 election. These investigations hindered the new government because the losing ALP party stripped many government offices of key files and documents. Since coming to power, the Spencer administration implemented an aggressive anticorruption program and passed legislation dealing with corruption and ethics. In March the government brought three counts of conspiracy charges against an advisor to a UPP minister for alleged improper approaches to the government tender board.

In 2004 the Spencer administration passed legislation on government transparency to provide access to government information. At year's end, however, implementation lagged, and the UPP was criticized for not fulfilling its campaign promises regarding transparency.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, sex, creed, language, or social status, and the government generally respected these prohibitions in practice.

Women.—Violence against women, including spousal abuse, was a problem. The Domestic Violence Act prohibits and provides penalties for domestic violence, rape, and other sexual offenses, with maximum sentences (rarely imposed) ranging from 10 years' to life imprisonment. Many women were reluctant to testify against their abusers. Organizations such as the government's Directorate of Gender Affairs sought to increase women's awareness of their rights under the law in cases of domestic violence. The Directorate of Gender Affairs operated a domestic violence program that included training for police officers, magistrates, and judges. The directorate also ran a domestic abuse hot line and worked with a nongovernmental organization (NGO) to provide safe havens for abused women and children.

Violence against women came into sharp focus at the end of October, when Senate President Hazelyn Francis was assaulted and raped in her home. The prime minister vowed to bring the full force of the law against the perpetrator of the crime, and police had identified suspects but not charged anyone by year's end. Francis was also the victim of an attempted robbery at her residence earlier in the year. Francis and other female members of parliament requested personal security details, but the government did not provide any.

The Directorate of Gender Affairs launched an education campaign to "Break the Silence" and in November held a march against domestic violence. Senators Hazelyn Francis and Joanne Massiah, Labor Minister Jaqui Quinn-Leandro, and Dr. Ermina Osoba participated in the march and following candlelight vigil in remembrance of victims who died as a result of domestic violence.

Prostitution is prohibited, but it remained a problem. During the year there were reports of a prostitution ring involving teenagers and young men. There were also a number of brothels that catered primarily to the local population (see section 5, Trafficking).

Sexual harassment is illegal, but it was rarely prosecuted.

According to the Labor Department, there was a high incidence of sexual harassment reported by employees in both the private and public sectors. No information was available whether any cases had been brought to the labor courts.

While the role of women in society is not restricted legally, economic conditions in rural areas tended to limit women to home and family, although some women worked as domestics, in agriculture, or in the large tourism sector. Women were well represented in the public sector; 54 percent of the public service and more than half the permanent secretaries—the most senior career positions—were female. In addition 41 percent of bar association members were female. There was no legislation requiring equal pay for equal work. Women faced no restrictions involving ownership of property. The Directorate of Gender Affairs was tasked with promoting and ensuring the legal rights of women.

The Professional Organization for Women of Antigua was a networking and resource group for professional women that held seminars for women entering the workforce.

Children.—While the government repeatedly expressed its commitment to children's rights, its efforts to protect those rights in practice were limited. The government provided free, compulsory, and universal education for children through the age of 16. However, schools faced many shortages, and parents typically provided desks and chairs. Although shared textbooks were provided, parents often purchased books; parents also provided uniforms. More than 95 percent of school-age children attended school, and most children achieved a secondary education. In June four girls were not allowed to attend their graduation because they were pregnant.

Boys and girls had equal access to health care and other public services.

Child abuse remained a problem. The press reported regularly on the rape and sexual abuse of children, including the gang rape of a 15-year-old girl in May. This incident led a local NGO to call for the country to address the issue of adults preying on children for sex. Adult men having regular sexual relations with young girls was also a problem. According to one regional human rights group, the girls were often the daughters of single mothers with whom the perpetrators also had regular sexual relations. A case in which a 40-year-old man was having a long-term rela-

tionship with a young girl received considerable attention during the year. It came to public awareness when neighbors alerted police to the fact that the man and girl were living together as a couple. According to press reports, police failed to take action. A spokesperson for the government's Citizens Welfare Division stated that police routinely ignored such cases because they considered them to be consensual and not criminal acts.

Trafficking in Persons.—There are no laws that specifically address trafficking in persons. Although there were no reports that persons were trafficked from or within the country, there were a number of brothels staffed mostly by women from the Dominican Republic. After complaints by local religious leaders, authorities raided four brothels in August, arrested 70 alleged prostitutes and clients, and deported those working or present illegally back to the Dominican Republic, Trinidad, Jamaica, and Guyana.

Persons with Disabilities.—There was no reported discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Although the constitution contains antidiscrimination provisions, no specific laws prohibit discrimination against, or mandate accessibility for, persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—Workers have the right to associate freely and to form labor unions. Approximately 75 percent of workers belonged to a union. During the year the owner of Caribbean Star Airlines, based in the country, fired nine pilots and five stewardesses who had organized a union. At year's end the matter was before the Industrial Relations Court.

b. The Right to Organize and Bargain Collectively.—Labor organizations were free to organize and bargain collectively. The Labor Code applied equally to workers in the country's free trade zones.

The Labor Code provides for the right to strike, but the Industrial Relations Court may limit this right in a given dispute. Workers who provide essential services (including bus, telephone, port, petroleum, health, and safety workers) must give 21 days' notice of intent to strike. Once either party to a dispute requests that the court mediate, strikes are prohibited under penalty of imprisonment. Because of the delays associated with this process, unions often resolved labor disputes before a strike was called. In addition an injunction may be issued against a legal strike when the national interest is threatened or affected. The International Labor Organization's Committee of Experts repeatedly requested the government to amend certain paragraphs of the Industrial Courts Act and the extensive list of essential services in the Labor Code, asserting that these provisions excessively limit the right to strike.

c. Prohibition of Forced or Compulsory Labor.—The law forbids slavery and forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law stipulates a minimum working age of 16 years, which corresponds with the provisions of the Education Act. In addition persons under 18 years of age must have a medical clearance to work and may not work later than 10 p.m. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, effectively enforced this law. The labor commissioner's office also had an inspectorate that investigated exploitative child labor matters.

e. Acceptable Conditions of Work.—The Labor Code provides that the minister of labor may issue orders, which have the force of law, to establish a minimum wage. In 2002 upon recommendation from a tripartite committee of representatives from employers, employees, and government, the minister of labor set the minimum wage at \$2.22 (EC\$6.00) an hour for all categories of labor. The minimum wage provided a barely adequate standard of living for a worker and family, and in practice the great majority of workers earned substantially more than the minimum wage.

The law provides that workers are not required to work more than a 48-hour, 6-day workweek, but in practice the standard workweek was 40 hours in 5 days. Laws provide for overtime work in excess of the standard workweek; excessive overtime is not specifically prohibited.

Although the government had not developed occupational health and safety laws or regulations, apart from those regarding child labor, a section of the Labor Code includes some provisions regarding occupational safety and health. While not specifically provided for by law, workers may leave a dangerous workplace situation without jeopardy to continued employment.

ARGENTINA

Argentina is a federal constitutional republic with a population of approximately 39.5 million. In 2003 voters elected President Nestor Kirchner in free and fair multiparty elections; on October 23, national legislative elections were held. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- instances of killings and brutality by police and prison officials
- overcrowded, substandard, and life-threatening prison and jail conditions
- arbitrary arrest and detention
- prolonged pretrial detention
- domestic violence and sexual harassment against women
- trafficking in persons for sexual exploitation and labor
- child labor

In June the Supreme Court ruled that the 1986 and 1987 amnesty decrees were unconstitutional, opening the way for the resumption of trials against hundreds of former military and security force personnel, whose trials had been halted when the decrees were issued. Although significant problems remained, the government moved forward in judicial reform; in August the country's first jury trial was conducted.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—While the government or its agents did not commit any politically motivated killings, police and prison officers committed killings involving unwarranted or excessive force. The authorities investigated, and, in some cases, detained, prosecuted, and convicted the officers involved.

The Center for Legal and Social Studies (CELS) reported that security forces were responsible for 53 deaths in the greater Buenos Aires area in the first half of the year, a number that included individuals killed in confrontations with security forces during the presumed commission of a crime.

In February in Villa Lugano, the Federal Police (PFA) arrested three police officers, Agent Adrian Bustos, Agent Miguel Angel Cisneros and Corporal Mariano Almiron for killing 14-year-old Camila Arjona. The three police officers were being held in preventive detention pending the beginning of their trial.

In May a court in San Isidro absolved a former police officer in the 1999 shooting death of an unarmed 16-year-old suspect. The superior court denied the prosecutor's appeal.

The investigation continued into the October 2004 deaths of three juvenile detainees in a fire in a Buenos Aires police station. Nine policemen were suspended and remained under investigation at year's end.

On September 22, the superior court of the province of Santiago del Estero ordered that the trial of seven suspects in the 2003 killings of Patricia Villalba and Leyla Bashier Nazar begin. The seven indictees included the former information chief of the province and three provincial police officers; the trial was ongoing at year's end. An investigation of other police officers and former provincial officials in connection with the killings continued.

On January 9, the court sentenced former Buenos Aires provincial police officers Alfredo Fanchiotti and Alejandro Acosta to life imprisonment for the 2002 shooting deaths of demonstrators Dario Santillan and Maximiliano Kosteki. Fanchiotti and Acosta were sentenced to life imprisonment. Three of the five other police officers on trial were found guilty of concealing the crime and sentenced to four years in prison; two other officers received probation for two and three years, respectively.

In September former police officers Marcos Bressan and Martin Alejandro Ferreyra were acquitted for in the 2001 killings of Gaston Galvan and Miguel Burgos.

b. Disappearance.—There were no reports of politically motivated disappearances. Judicial proceedings related to killings, disappearances, and torture committed by the 1976–83 military regimes continued (see section 1.e.). In June the Supreme Court ruled the 1986 and 1987 amnesty laws, “Full Stop” and “Due Obedience,” to be unconstitutional, opening the way to restarting suspended judicial proceedings

against hundreds of former military and security force members accused of forced disappearances to recommence.

The under-secretariat for human rights, which maintained the files of the National Commission on Disappeared Persons, received 9,005 claims for financial compensation from families of those who died or disappeared during the military dictatorship.

Judicial authorities continued to investigate cases of kidnapping and illegal adoption by members of the former military regime of children born to detained dissidents. Eighty-one children born to detained and disappeared dissidents and illegally adopted have been identified and made aware of their true backgrounds.

In April three Buenos Aires provincial police officers were sentenced to prison for kidnapping and extorting a local merchant. One received a 14-year prison sentence; the 2 others received sentences of 13½ years in prison.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices and provides penalties for torture similar to those for homicide, some police and prison guards continued to employ torture and brutality. Human rights organizations reported police brutality and occasional torture of suspects. While the government investigated reports of police brutality in prisons, there were few convictions in comparison to the number of complaints.

In another case documented by the independent Buenos Aires Provincial Memory Commission, Cristian Lopez Toledo and Claudio Marquez Laineker, prisoners at the Buenos Aires provincial prison in La Plata, were tortured with electric shocks after they requested to meet with the Memory Commission during its visit to the prison in August. In the subsequent trial, expert witnesses verified the commission's claims.

Prison and Detention Center Conditions.—Prison conditions often were poor and life threatening. The Inter-American Commission on Human Rights stated that “overcrowding, deficient health care, dilapidated and insufficient infrastructure, inadequate nutrition, and ongoing inhumane treatment of detainees . . . triggered violations of human rights” in detention centers. The commission added that violence in various prisons led to death and “serious bodily and psychological harm to inmates.” The CELS 2005 publication *Collapse of the Prison System* cited a Federal Penitentiary Service report indicating that 28.5 percent of the federal penitentiaries were overcrowded and 40 to 45 percent were at capacity. In Buenos Aires Province, 54 percent of the provincial prisons were overcrowded, and 28 percent were at capacity.

In February rioting in the San Martin prison in Cordoba led to the deaths of five prisoners, two guards, and a police officer. In April in the Coronada prison in Santa Fe, prisoners killed 13 other inmates in what was described as a “settling of accounts” between rival gangs. On October 16, 33 prisoners died from inhaling smoke from a fire set in a prison dormitory during a disturbance at the Buenos Aires provincial prison in Magdalena. Victims’ family members claimed the fires were reprisals because some of the prisoners in that dormitory had filed complaints. The Buenos Aires Provincial Memory Commission reported that its inquiry revealed official complicity in the deaths. The report stated that the emergency doors remained locked during the fire and that half the fire extinguishers had expired. The report also stated that guards used force, including firing rubber bullets, to prevent prisoners in neighboring cells from aiding the trapped prisoners.

Overcrowding in juvenile facilities often resulted in minors being held in police station facilities, although separate from adult detainees. Reliable reports indicated that pretrial prisoners often were held with convicted prisoners. In May the Supreme Court upheld a motion brought by CELS on behalf of all prison and jail detainees in the province of Buenos Aires and ordered an end to the detention of minors and sick persons in Buenos Aires police stations. Thereafter all such detainees were sent to the respective juvenile, mental health, or specialized centers. The overall number of adult detainees in police detention facilities in the province of Buenos Aires also decreased from 5,500 to 4,200 during the year.

The government permitted prison visits by local and international human rights observers, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, police occasionally arrested and detained citizens arbitrarily. In the past human rights groups reported difficulties in documenting such incidents because victims were reluctant to file complaints for fear of police retaliation or because of skepticism that police would act.

Role of the Police and Security Apparatus.—The PFA under the Interior Ministry has jurisdiction for maintaining law and order in the federal capital and for federal

crimes in the provinces. Additionally, each province has its own police force that responds to a provincial security ministry or secretariat. Individual forces varied considerably in their effectiveness and respect for human rights. Corruption was endemic in some forces, and impunity for police abuses was common.

The most common abuses included extortion and protection for those involved in illegal gambling, prostitution, and auto theft rings, as well as detention and extortion of citizens under the threat of planting evidence to charge them for crimes. Some police also were involved in drug trafficking. Efforts continued in the province of Buenos Aires to remove and prosecute police for corruption and other offenses. In November the Buenos Aires Province security minister fired 46 police officers under investigation for alleged abuse, corruption, extortion, and unjustified homicide, bringing to 935 the number of officers dismissed, suspended, or under investigation for malfeasance and criminal activity between May 2004 and November 2005. Other trials were pending.

Arrest and Detention.—Police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that the suspects have committed, or are about to commit, a crime or if they are unable to determine the suspected person's identity. Human rights groups argued that this provision of law was often disregarded.

The law provides a person in detention with the right to a prompt determination of the legality of the detention, which entails appearance before a criminal lower court judge who determines whether to proceed with an investigation. There were frequent delays in this process and in informing detainees of the charges against them, partially due to the fact that the majority of defendants rely on the overburdened public defender system.

The law provides for the right to bail; although the bail system was used, civil rights groups claimed that judges were more likely to order indicted suspects held in preventive or pretrial detention rather than allow suspects to remain free pending their trial.

Detainees were allowed prompt access to counsel, and public defenders were provided for detainees unable to afford counsel, although such access was sometimes delayed due to an overburdened system. Lack of resources for the public defender's office resulted in an excessive caseload for public defense attorneys. Detainees also were allowed access, although not always prompt, to family members.

There were no reports of political detainees.

The law provides for investigative detention for up to two years of indicted persons awaiting or undergoing trial; the period could be extended to three years in certain limited situations. The slow pace of the justice system often resulted in lengthy detentions beyond the period stipulated by law (see section 1.e.). A convicted prisoner usually received credit for time already served. According to the Federal Bureau for Criminal Policies, approximately 65 percent of inmates in federal prisons had been charged but were awaiting the beginning or completion of their trials; CELS reported that the figure in the province of Buenos Aires was 84 percent in 2004. The Nam Qom Toba indigenous community in Formosa Province alleged that some of its members were arbitrarily detained (see section 5).

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, some judges and judicial personnel were inefficient and at times subject to political manipulation. There were credible reports of efforts by members of security forces and others to intimidate the judiciary and witnesses. The system was hampered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, and incompetence. Judges have broad discretion as to whether and how to pursue investigations, contributing to a public perception that many decisions were arbitrary. Allegations of corruption in provincial courts were more frequent than at the federal level, reflecting strong connections between some governors and judicial powers in their provinces.

The judicial system is divided into federal and provincial courts, both headed by a supreme court with chambers of appeal and section courts below it. The federal courts are divided between the criminal courts and economic courts.

Investigations over the last two years of a number of Supreme Court justices by the Impeachment Committee of the Chamber of Deputies concluded in September with the Senate's impeachment of Justice Antonio Boggiano, which followed the impeachment of one justice in 2003 and the resignations of three others in 2004.

Trials are public, and defendants have the right to legal counsel and to call defense witnesses. During the investigative stage, defendants can submit questions in writing to the investigating judge. A panel of judges decides guilt or innocence. Federal and provincial courts continued the transition to trials with oral arguments in criminal cases, replacing the old system of written submissions. Although the 1994

constitution provides for trial by jury, implementing legislation has not been passed. Lengthy delays in trials were a problem. There is a provision for counsel for indigents; however, in practice counsel may not always be provided due to a lack of resources. Defendants are presumed innocent and have the right to appeal, as do prosecutors. Minors under the age of 16 cannot be criminally prosecuted.

There is a military court system, which has jurisdiction over military personnel.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The independent media were active and expressed a wide variety of views without restriction. A number of independent newspapers and magazines published freely, and all print media were owned privately. Privately owned radio and television stations broadcast freely. The federal government owns the Telam wire service, a radio network, and a television station. A few provincial governments also owned broadcast media.

Some civil rights organizations and several media claimed that national and provincial government agencies subtly interfered with media freedom and editorial independence, for instance, directing government advertising for political and personal purposes. A report by the nongovernmental organization (NGO) Poder Ciudadano, the local chapter of Transparency International, alleged that there was discriminatory allocation of advertising in national newspapers, noting, for instance, that, although *La Nacion* newspaper had the second largest circulation in the country, it received less government advertising than the daily *Pagina 12*, which had much lower circulation but was widely perceived as supporting government policies.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Although most protests and demonstrations were peaceful, there were violent demonstrations and confrontations with security forces, resulting in injuries and arrests. Security forces occasionally used rubber bullets but more often used tear gas and water cannons to disperse unruly demonstrators.

Demonstrators were detained in several instances, leading to charges that the government was criminalizing protests. Agitators reportedly often inserted themselves into otherwise peaceful demonstrations to provoke confrontations with the police.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The law states that the federal government “sustains the apostolic Roman Catholic faith,” and the government provided the Catholic Church with a variety of subsidies. Other religious faiths were practiced freely.

In order to hold public worship services and obtain tax-exempt status, religious organizations must register with the Secretariat of Worship in the Ministry of Foreign Relations, International Trade, and Worship and report periodically to maintain their status. In September the secretary of religion issued new regulations, following consultations with all the religious groups, which streamlined the registration process for religious groups.

Societal Abuses and Discrimination.—Acts of discrimination and vandalism against religious minorities, particularly the Jewish community, continued. The government continued to support a public dialogue to highlight past discrimination and to encourage improved religious tolerance. In July the secretary of religion, together with the Universidad del Salvador and the Latin American Association for the Study of Religions, hosted the Third Latin American Colloquium on Religion and Society; leaders of the Christian, Jewish, Muslim, and indigenous communities attended the colloquium.

The Jewish community was estimated to number between 280 thousand and 300 thousand. There were a number of reports of anti-Semitic acts, including threats against Jewish organizations and individuals. On December 29, in La Plata, a monument honoring former Israeli prime minister Yitzhak Rabin was vandalized. In November fans of a basketball team playing against a team from the Zionist Youth Center of La Plata, chanted anti-Semitic epithets. The most frequent incidents included anti-Semitic and pro-Nazi graffiti and posters in cities throughout the country and the proliferation of anti-Semitic publications in bookshops. Jewish

organizations reported their continued concern but noted that there was no increase in incidents from the previous year.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not exile anyone.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. The government signed an agreement with the Office of the UN High Commission for Refugees (UNHCR) for a program to resettle at-risk Colombian families; in addition, it maintained an interministerial committee to evaluate refugee and asylum claims. The government accepted refugees for resettlement. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum to 213 persons during the year.

The law also allows the government to provide temporary protection for humanitarian reasons, including family reunification, to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The government cooperated with the Office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In 2003 Nestor Kirchner won a plurality of votes in presidential elections generally regarded as free and fair. On October 23, national and provincial legislative elections were held. At the national level, one-half of the seats in the Chamber of Deputies and one-third of those in the Senate were contested. Observers considered the elections to be free and fair, and there were no claims of fraud by any of the major parties.

Decrees provide that one-third of the members of both houses of congress must be women, a goal achieved through balanced election slates. There were 31 women in the 72-seat Senate and 86 women in the 257-seat Chamber of Deputies. There were two female Supreme Court justices and one woman in the cabinet.

There were no known indigenous, ethnic, or racial minorities in the national legislature, in the cabinet, or on the Supreme Court.

Government Corruption and Transparency.—Transparency International's annual index indicated perceptions of a "severe corruption problem" in the country. The government continued to pursue anticorruption measures. In September the Senate impeached Supreme Court Justice Antonio Boggiano, following an investigation by the Chamber of Deputies into accusations of malfeasance in office (see section 1.e.). Prosecutions of a number of former government officials accused of corruption continued. Historically weak institutions and an often ineffective and politicized judicial system made rooting out corruption in any systemic fashion difficult.

The law provides for public access to government information. At the national level, an executive decree requires executive agencies to answer requests for public information within 10 working days. Agencies' compliance generally fell short of this requirement, as few had developed the internal mechanisms necessary to respond efficiently to the requests.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government usually was cooperative and generally responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these provisions in practice.

Women.—The law prohibits domestic violence, including spousal abuse, and provides for removal of the abusive spouse from the home, but it does not provide pen-

alties unless the violence involves crimes against "sexual integrity." In this case penalties can be as much as 20 years' imprisonment. Domestic violence against women was a serious problem. In 2004 the Inter American Development Bank estimated that 25 percent of women were victims of domestic violence.

Any person suffering physical or psychological domestic violence may file a formal complaint with a judge or police station, and the law gives family court judges the right to prevent the perpetrator of a violent act from entering the victim's home or workplace. Charges also may be brought in criminal court, which may apply corresponding penalties. However, lack of vigilance on the part of the police and the judicial system often led to a lack of protection for victims.

Public and private institutions offered prevention programs and provided support and treatment for abused women, but there was little transitional housing. The Buenos Aires municipal government operated a small shelter for battered women and a 24-hour hot line offering support and guidance to victims of violence; however, few other shelters existed.

NGOs stressed that women often did not have a full understanding of their rights or of what actions could be considered punishable offenses. In addition there was a great disparity between urban centers and rural areas with respect to women's awareness of and access to equal rights. Indigenous women particularly were vulnerable due to higher rates of illiteracy and insufficient bilingual educational resources.

The law criminalizes rape, including spousal rape, but the need for proof, either in the form of clear physical injury or the testimony of a witness, often presented problems. The penalties for rape ranged up to 20 years' imprisonment. Although reliable statistics were not available, advocates believed that rape was not uncommon. Women's rights advocates claimed that police, hospital, and court attitudes toward sexual violence victims often re-victimized the individual.

Soliciting for prostitution is generally illegal but did occur. NGOs considered sex tourism a problem but had no estimates of its extent. Trafficking of women to and within the country for prostitution was a problem (see section 5, Trafficking).

Sexual harassment in the public sector is prohibited under laws that impose disciplinary or corrective measures. In some jurisdictions (for instance, in the city of Buenos Aires) sexual harassment may lead to the abuser's dismissal, whereas in others (such as Santa Fe Province), the maximum penalty is five days in prison. No federal law expressly prohibits sexual harassment in the private sector. Sexual harassment occurred, but few complaints were lodged, which specialists believed may be due to a lack of information on existing legal protections.

Although women enjoyed equality under the law, including property rights, they encountered economic discrimination and held a disproportionately higher number of lower paying jobs. Men earned, on average, 38 percent more than women for equivalent work, an imbalance explicitly prohibited by law. Approximately 70 percent of women employed outside the home worked in non-skilled jobs, although more women than men held university degrees. The law provides for prison terms of up to three years for discrimination based on gender.

The National Council of Women carried out programs to promote equal social, political, and economic opportunities for women. The Council worked with the special representative for international women's issues, the Ministry of Labor, and union and business organizations to form the Tripartite Committee on Equal Opportunity for Men and Women in the Workplace, which sought to foster equal treatment and opportunities for men and women in the job market.

Children.—Although the government voiced strong commitment to children's rights and welfare, many programs remained underfunded.

Education is free and compulsory for 10 years, beginning at age 5. Although a 2001 government survey reported school attendance rates between 92 percent (at age 5) to 97 percent (ages 13 to 14), an appraisal by the International Bank for Reconstruction and Development stated that of 100 students entering primary school, 84 would enter the seventh grade, and 40 would enter the last year of secondary school. Attendance rates were lowest among children from low-income households. Access to schooling was limited in some rural areas of the country. School enrollment rates for girls were slightly higher than for boys.

There were numerous federal and provincial health care programs for boys and girls on basis of equal access. While such programs were available in all provinces, they tended to be limited to larger urban areas, which made access difficult for children in isolated rural communities.

While child abuse continued to occur and was not uncommon, the government took measures to combat it. The National Council for Children, Adolescents, and the Family instituted a national hot line which children could use to call for advice, make complaints, and report instances of abuse or other rights violations. In the

first quarter of the year, the city of Buenos Aires' call-in service, Linea 102, received almost 1,900 calls, over half of which were for "mistreatment," another significant group for "negligence," and a third large group for family violence. In conjunction with other agencies and organizations, the council also conducted educational and awareness-raising efforts. Prosecutors and police pursued cases of Internet child pornography. Children also were involved in sexual exploitation, sex tourism, and drug trafficking.

Trafficking of children was a problem (see section 5, Trafficking).

Child labor was also a problem (see section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons for the purpose of prostitution through fraud, intimidation, or coercion, or in the case of minors; however, trafficking occurred. The law also prohibits alien smuggling, indentured servitude, and similar abuses. The law also criminalizes offenses often associated with trafficking, such as kidnapping, forced labor, the use of false documents, and prostitution. Penalties for trafficking range from 1 to 20 years in prison, depending on the nature of the violation and the age of the victim.

Coordination of trafficking detection and antitrafficking prosecution efforts improved. The Federal Office of Victim Assistance (OFAVI), a unit under the federal prosecutor's office, is the lead agency for coordinating antitrafficking efforts. OFAVI coordinates activities with law enforcement agencies, including the Federal Police and the Gendameria, with the Ministries of Justice, Interior, and Foreign Affairs, the national Immigration Service, and the Council for Children, Teenagers, and Family. Although the country's law enforcement officers lacked a clear mandate from political leaders and sufficient resources to pursue aggressively domestic and international traffickers, investigations and arrests increased. The government cooperated on international investigations and worked with Paraguayan and Bolivian authorities on several cases of trafficked women and minors. The government cooperated with international investigations.

Trafficking in persons primarily involved citizens trafficked within the country, mostly from the northern provinces to the central provinces and Buenos Aires, and from Buenos Aires to several southern provinces. To a lesser degree, the country was a destination for victims, principally women and minors from Paraguay and Brazil. The International Organization for Migration (IOM) estimated that 52 percent of the Paraguayan victims of trafficking rings were trafficked into the country, 34 percent of them women under age 18. The groups most at risk were young women and children from impoverished families and broken homes, who were subject to physical and sexual abuse in the home and often abandoned.

Trafficking into forced labor occurred (see section 6.c.).

While there were no official reports on the activities of traffickers, the media reported that traffickers often presented themselves as employment agencies or even as individual recruiters. Traffickers confiscated travel documents to prevent victims from appealing to authorities for protection. Victims, particularly women and girls in prostitution, may be denied contact with the outside world. Victims often were threatened or beaten.

There were no allegations of federal government official involvement in trafficking, and local police and officials suspected of involvement were investigated and prosecuted. In May the criminal court of appeals in San Martin, Buenos Aires, overruled the dismissal by a lower court of a case against the mayor of San Miguel, Claudio Zilocchi, who had been accused of receiving bribes from several brothel owners. The court of appeals ordered the trial to begin. Other indictees included an inspector from San Miguel, the brother of the mayor of San Fernando, and 11 provincial police officers.

Trafficking victims normally were not detained, jailed, or deported, although some who were arrested for prostitution-related crimes may be jailed or deported.

Although the country lacked a comprehensive nationwide policy of victim assistance, the city of Buenos Aires in particular assisted dozens of victims, and most provinces had facilities for victims' assistance, including psychologists to aid victims and witnesses. Some victims qualified for federal government assistance, but most provincial officials were not trained to identify or help victims of trafficking specifically. The IOM assisted with repatriation of foreign victims of trafficking. The Catholic Oblate Sisters also assisted victims, offering such help as emergency shelter and counselling.

The government did not have a comprehensive policy to prevent trafficking, but isolated preventive measures were in place. The government made efforts to improve its effectiveness in combating trafficking, notably in the city of Buenos Aires, where it established a network to conduct information campaigns, outreach, and child victim identification. In addition, the government participated in an Inter-

national Labor Organization (ILO) project to prevent and eliminate commercial sexual exploitation of children in the border region with Brazil and Paraguay.

Persons with Disabilities.—The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services, and mandates access to buildings for persons with disabilities; however, the government did not effectively enforce these rights in practice.

Laws mandating greater accessibility to buses and trains for persons with disabilities were not enforced fully.

The National Advisory Committee for the Integration of People with Disabilities, under the National Council for Coordination of Social Policies, has formal responsibility for actions to integrate persons with disabilities.

The government implemented measures aimed at integrating persons with disabilities into the workforce. In August the navy began a program to hire persons with disabilities for appropriate tasks in some of their facilities. In September the City Urban Guard in Buenos Aires, which is charged with preventing and detecting hazardous or criminal situations in public spaces and calling upon security forces to take action, advertised a personnel search to hire persons with disabilities.

Indigenous People.—The constitution recognizes the ethnic and cultural identities of indigenous people and states that congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources. In practice, indigenous people did not fully participate in the management of their lands or natural resources, in part because laws do not specifically contemplate communal ownership. The National Institute of Indigenous Affairs is the government agency responsible for implementing these provisions.

Observers estimated that the principal indigenous groups—the Kollas in Salta and Jujuy, the Mapuches in the Patagonian provinces, and the Wichis and Tobas in the northern provinces—represented less than 5 percent of the national population, with estimates ranging between 1.75 and 5 million persons.

Poverty rates were higher than average in areas with large indigenous populations. Indigenous people had higher rates of illiteracy, chronic disease, and unemployment. The lack of trained teachers hampered government efforts to offer bilingual education opportunities to indigenous people.

Individuals of indigenous descent from the northern part of the country, as well as from Bolivia, Peru, and other Latin American countries, reportedly were subjected frequently to verbal insults because of their dark skin.

Some communities were involved in land disputes with provincial governments and private companies, particularly over questions of natural resource extraction, pollution, and road construction. On August 11, in Salta Province the indigenous communities association Lhaka Honhat filed a motion with the Supreme Court contesting a provincial decree calling for a referendum to grant or deny lands in dispute. The Supreme Court declined to hear the case; in October the referendum was held and passed. In mid-October Lhaka Honhat and federal and provincial government representatives attended a meeting at the Inter-American Commission on Human Rights (IACHR). The indigenous communities requested the adoption of provisional remedies to protect their ancestral lands and asked that the IACHR consider the case, which it agreed to do. On March 1, the Nam Qom Toba community in Formosa Province filed a complaint before the IACHR for multiple violations of human rights by the provincial police and the provincial and national authorities in 2002. The suit contended that 80 community members were tortured and were detained arbitrarily, some for almost two years.

Section 6. Worker Rights

a. The Right of Association.—The law provides all workers, with the exception of military personnel, the right to form and join “free and democratic labor unions, recognized by simple inscription in a special register,” and workers exercised this right. An estimated 35 percent of the work force was organized.

Labor groups not affiliated with the General Confederation of Labor contended that the Professional Associations Law provision for legal recognition of only one union per sector conflicts with ILO Convention 87. One of those unions, the Argentine Workers Central, presented this claim to the IACHR in March 2004, and its petition was pending at year’s end.

The law prohibits antiunion discrimination and requires employers to reinstate workers illegally dismissed for union-related activities.

b. The Right to Organize and Bargain Collectively.—The law provides unions with the right to negotiate collective bargaining agreements and to have recourse to con-

ciliation and arbitration. The Ministry of Labor, Employment, and Social Security ratifies collective bargaining agreements, which covered roughly 75 percent of the formally employed work force. According to the ILO, the ratification process impeded free collective bargaining because the ministry considered not only whether a collective labor agreement contained clauses violating public order standards but also whether the agreement complied with productivity, investment, technology, and vocational training criteria. However, there were no known cases during the year of government refusal to approve any collective agreements under the above criteria.

Unions have the right to strike, although those representing civil servants and workers in essential services are subject to the condition that “minimum services” (undefined) are rendered. Workers exercised this right by conducting legal strikes.

There are no special laws or exemptions from regular labor laws in the three functioning export processing zones.

c. Prohibition of Forced or Compulsory Labor.—While the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 5). An investigation into an apparent case of forced labor involving potentially hundreds of Bolivian citizens working in clothing sweatshops in Flores Sur, a neighborhood in the city of Buenos Aires, was underway at year’s end. A federal judge declined to review the case, citing lack of jurisdiction, and referred the case to the National Court of First Instance. Some of the workers involved appealed the federal judge’s decision, and the case remained pending at year’s end.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law protects children from exploitation in the workplace and sets the minimum age for employment at 14 years; in rare cases the Ministry of Education may authorize a younger child to work as part of a family unit. Children between the ages of 14 and 18 may work in a limited number of job categories and for limited hours if they have completed compulsory schooling, which normally ends at age 15. Legal penalties for employing underage workers ranged from \$350 to \$1,750 (1 to 5 thousand pesos) for each child employed. Provincial governments and the city government of Buenos Aires are responsible for labor law enforcement.

In 2004 the National Commission for the Eradication of Child Labor (CONAETI) estimated that up to 1.5 million children, or 22 percent of the children under the age of 15, worked in some capacity. Most illegal child labor took place in the informal sector, where inspectors had limited ability to enforce the law. Child labor in urban zones included such work as small-scale garment production, trash recycling, street sales, domestic service, and food preparation. Children also were involved in prostitution, sex tourism, and drug trafficking (see section 5).

CONAETI worked with unions and other groups to train rural child labor monitors, and with provincial authorities in the tri-border area with Brazil and Paraguay to address child sexual exploitation. In 2004 congress acknowledged that the country lacked sufficient inspectors and programs to detect child labor or to rescue exploited children and that there were inadequate sanctions against employers for exploiting children. Ministry of Labor statistics indicated that federal and provincial labor inspectors conducted approximately 64 thousand inspections through the end of October. In 44 percent of the inspections, officials detected a violation of some type, typically relating to informally employed workers, for whom employers didn’t pay social security and health taxes or insurance.

e. Acceptable Conditions of Work.—The monthly national minimum wage was approximately \$215 (630 pesos), which did not provide a decent standard of living for a worker and family. Most workers in the formal sector earned significantly more than the minimum wage. The Ministry of Labor (MOL) is responsible for enforcing legislation related to working conditions. A MOL report based on inspections conducted during the year reported that the informal sector employed 46 percent of the workforce.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is 8 hours, and the maximum workweek is 48 hours. Overtime pay is required for hours worked in excess of these limits. The law sets minimums for periods of rest, requiring a minimum of 12 hours of rest to start a new workday. Sundays are holidays, and those required to work on Sundays are paid double. However, laws governing acceptable conditions of work were not enforced universally, particularly for workers in the informal sector.

The law requires employers to insure their employees against accidents at the workplace and when traveling to and from work. Workers have the right to remove themselves from dangerous or unhealthy work situations without jeopardy to continued employment. However, workers who leave the workplace before it has been

proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process can be very lengthy.

BAHAMAS

The Commonwealth of the Bahamas is a constitutional, parliamentary democracy with a population of approximately 320 thousand, not including an estimated 30 thousand illegal Haitians. Prime Minister Perry Christie's Progressive Liberal Party (PLP) regained control of the government after 2002 elections that observers found to be generally free and fair. The civilian authorities generally maintained effective control over security forces.

The government generally respected the human rights of its citizens. The year brought improvement in conditions at Fox Hill Prison, worsening of conditions for persons awaiting trial, and increased concerns regarding the rights of minority Haitians. The following human rights problems were reported:

- poor prison and detention center conditions
- arbitrary arrest and detention
- lengthy pretrial detention and delays in trials
- violence and discrimination against women
- violence against children
- discrimination against persons of Haitian descent

The government improved conditions at Fox Hill prison with regard to prisoner intake and cell assignments, new educational opportunities, new use-of-force guidelines, and a new internal affairs unit.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Unlike previous years, there were no reports that the government or its agents committed arbitrary or unlawful killings, and several past cases were resolved.

In March the coroner's court found that the 2003 killing of a 16-year-old girl by a reserve police officer was unlawful manslaughter. Authorities charged the officer, and the criminal trial continued at year's end. Also in March the coroner's court found that a police officer's 2002 killing of Jermaine Mackey, which led to a riot in the Kemp Road community, was unlawful manslaughter. At year's end criminal prosecution was under way.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, but human rights monitors and members of the public expressed concern over continued instances of police abuse of criminal suspects. Police officials, while denying systematic or chronic abuses, acknowledged that police on occasion abused their authority (see section 1.d.).

There were no further developments in the February 2004 case of a 19-year-old detainee from Grand Bahama Island who claimed police stripped him, handcuffed him to a tree, and beat him with a metal pipe to extract a confession before charging him with attempted armed robbery.

Prison and Detention Center Conditions.—Conditions at Fox Hill prison, the country's only prison, remained harsh. Overcrowding was a major problem. The men's maximum-security block, originally built in 1953 to hold 400 to 600 inmates, held more than 700 of the approximately 1,500 total inmate population. The remaining prisoners were held in remand, and in medium- and minimum-security units that were at intended capacity. The prison remand area, built to hold 300 prisoners awaiting trial, was insufficient to hold the 650 prisoners awaiting trial, leaving many pretrial detainees confined in cells with convicted prisoners in the maximum-security unit. Male prisoners placed in the maximum-security unit were crowded into poorly ventilated cells that generally lacked regular running water, toilets, and laundry facilities. Most prisoners lacked beds, slept on concrete floors, and were locked in small cells 23 hours per day, often with human waste. Maximum-security inmates were allowed outside for exercise four days a week for one hour per day. Inmates complained of inadequate medical care and treatment.

The government attempted to improve conditions at Fox Hill and appointed the chairman of the Prison Reform Commission as prison superintendent. There were

improvements in prisoner intake, cell assignments, and educational opportunities for prisoners. Unlike in past years, new prisoners were no longer automatically placed in maximum security, but were processed through an intake center and assigned cells based upon an analysis of risk factors and space availability. Inmates reported continued improvement in food service operations due to a professional staff overseeing the inmate cooking staff; however, some unsanitary conditions in food preparation remained.

As part of prison reform efforts, the prison adopted new use-of-force guidelines to address past concerns over prisoner treatment. Prison officials also established an internal affairs unit to investigate complaints against guards. According to prison officials, there were no allegations of abuse by prison guards during the year.

Organizations providing aid, counseling services, and religious instruction had regular access to inmates. The government significantly increased funding for improvements in prison facilities and prisoner rehabilitation programs. Prison officials continued to improve technical and vocational programs, opening the programs to women and increasing course offerings. Approximately 500 of the 900 eligible prisoners participated in training and work release programs. In response to past concerns regarding prisoner abuse, prison officials adopted a policy on use of force, increased guard training, and used the new internal affairs unit to address complaints.

Following an investigation and an inquiry hearing, the coroner's court was unable to determine cause of death in 2000 of Sidney McKenzie, a Fox Hill prison inmate, after fellow inmates who initially had refused to testify for fear of retaliation told the courts that a prison guard beat and killed him.

In October 2004 the coroner's court ruled that neglect and failure to provide medical attention contributed to the death of Kazimierz Kwasiborski, who died at Fox Hill prison in 2003.

Although conditions for women prisoners were less severe, they did not have access to work release programs available to male prisoners.

The maximum-security building has a separate section for juvenile offenders between the ages of 16 and 18. There was occasional mixing of juveniles with adult inmates depending upon the severity of their crimes. Offenders younger than 16, along with children made wards of the court by their parents because of "uncontrollable behavior," were held at the Simpson Penn Center for Boys and the Williamae Pratt Center for Girls.

In February the coroner's court found that the 2003 deaths of two girls in a fire at the Pratt Center were accidental, but that the center's negligent management of padlocked rooms contributed to the deaths. Center officials admitted a breakdown in safety measures.

The Carmichael Road Immigrant Detention Center holds up to 500 detainees (with tent space for an additional 500), and women and men were housed separately. Haitians and Cubans were the most commonly interdicted migrants. The highest occupancy during the year was approximately 700, with an additional 250 at a temporary holding facility on the island of Great Inagua. Detainees complained that non-English speaking migrants were sometimes unable to communicate with guards regarding basic needs and detention center rules. Detainees also continued to complain of abuse by guards. Human rights groups expressed concern that complaint investigations were handled internally without independent review and oversight.

Children under the age of 14 were held in the women's dormitory. Many children arriving with both parents were not allowed contact with the father. Despite the potential of being held for months, these children did not have access to educational materials or a place to exercise or play.

Following an internal investigation into October 2004 allegations of abuse of migrants at the detention center, the government concluded that the complaints were without merit. Amnesty International (AI) criticized the investigation as biased and incomplete. In July a detainee alleged that guards unlawfully beat him and shot him with rubber bullets. Authorities reassigned the guards pending completion of an internal investigation, which continued at year's end.

Domestic and international human rights groups visited the prison and detention center during the year.

d. Arbitrary Arrest or Detention.—Although the law prohibits arbitrary arrest and detention, police occasionally arrested and detained persons arbitrarily.

Role of the Police and Security Apparatus.—The Royal Bahamas Police Force (RBPF) maintains internal security, and the small Royal Bahamas Defense Force (RBDF) is responsible for external security and some minor domestic security func-

tions such as guarding foreign embassies and ambassadors. The Ministry of National Security oversees the RBPF and the RBDF.

The Police Complaints and Corruption Branch, which reports directly to the deputy commissioner, was responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant disciplinary action within the police system or, in some cases, criminal prosecution by the attorney general. Local attorneys and human rights observers expressed concern that the complaints and corruption branch lacks the independent authority needed to impartially investigate allegations of abuse and misconduct, and that perceived lack of impartiality discouraged full reporting of complaints. Although the government appointed an independent four-person committee to oversee the complaints and corruption branch and report directly to the minister of national security, the committee was not used pending passage of implementing legislation.

The complaints and corruptions branch instead continued to report directly to the commissioner without independent oversight. Police officials insisted that their investigations were fair and thorough. A police officer involved in shooting or killing a suspect automatically is placed under investigation. There were 292 complaints against police during the year, compared with 330 in 2004. Of these 292 cases, authorities resolved 36, referred 68 referred to court, and had 188 still under investigation at year's end. Following investigations into complaints against police during the year, including unethical conduct, assault, wrongful arrest, and excessive use of force, authorities dismissed 2 officers and brought criminal charges against 15 officers. Charges resulted in two convictions, four acquittals, and nine cases under way at year's end.

During the year police underwent training in human rights issues, including in-house training for officers on use of force, human rights, internal investigations of complaints against police, and corruption. Police officials believed that additional training is necessary to address continuing problems.

Arrest and Detention.—In general the authorities conducted arrests openly and, when required, obtained judicially issued warrants. Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause exists. The law provides that a suspect must be charged within 48 hours of arrest. Arrested persons appear before a magistrate within 48 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. Police can apply for a 48-hour extension upon simple application to the court and for longer extensions with sufficient showing of need. Some persons on remand claimed they were not brought before a magistrate within the 48-hour time frame. One suspect was held without charge in maximum-security prison from April to August until he pled guilty to crimes before being officially charged, claiming he wanted to avoid precharge and pretrial maximum-security detention. The government generally respected the right to a judicial determination of the legality of arrests.

Although there is a functioning bail system, the law prohibits bail for repeat offenders and those accused of certain violent crimes. Judges sometimes authorized cash bail for foreigners arrested on minor charges; however, in practice foreign suspects generally prefer to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays in court cases and harsh conditions in the prison. Many foreign suspects paid bail and fled the country to avoid prosecution and extended detention.

Arrested persons may hire an attorney of their choice, but the government only provided legal representation to destitute suspects charged with capital crimes. In a 2003 report AI estimated that 41 percent of inmates did not have legal representation at their trial. Local legal professionals and human rights observers believed that this lack of representation risked hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants.

There were no reports of political detainees.

Attorneys and other prisoner advocates continued to complain of excessive pretrial detention (see section 1.e.). The constitution mandates that suspects can be held for a "reasonable period of time" before trial. Suspects commonly were held two to four years before they received a trial. In October a government report stated that 645 of the 1,500 prisoners at Fox Hill were awaiting trial. Prison officials estimated that approximately 100 pretrial prisoners had been on remand for over 2 years.

The authorities detained illegal immigrants, primarily Haitians and Cubans, at the Carmichael Road Immigrant Detention Center until arrangements could be made for them to leave the country, or they obtained legal status. Haitians usually were repatriated within 48 hours, due to increased cooperation between Bahamian and Haitian authorities and improved efficiency in processing. Average length of de-

tion varied significantly by nationality and availability of funds to pay for repatriation. Illegal immigrants convicted of crimes other than immigration violations were held at Fox Hill prison, where they often remained for weeks or months after serving their sentences, pending deportation.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

Magistrate's courts are the lowest level courts and only handle crimes with a maximum sentence of five years. Trial by jury is available only in the Supreme Court, which handles most major cases. Magistrate's court decisions may be appealed to the Court of Appeal; the Privy Council in London is the final court of appeal. The governor general appoints judges on the advice, in most cases, of the independent Judicial and Legal Services Commission.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence until proven guilty and are permitted to question witnesses at trial. There is a functioning system of bail, but individuals who could not post bail were held on remand for indefinite time periods. The judicial system had a large backlog of cases, and delays reportedly lasted as long as four years.

Local legal professionals attributed most delays to slow police investigation and prosecution rather than a lack of judicial capacity, suggesting that prosecutors had little incentive to quickly bring a matter to trial while the accused were detained for long prison terms while awaiting trial. In addition to excessive pretrial detention, local legal professionals continued to complain of outdated record keeping, delayed justice for victims, and a failure to update new laws on the books. There were isolated complaints of deviations from normal, fair court proceedings—particularly in civil matters—but there were no indications that this was a widespread problem.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

While the law usually requires a court order for entry into or search of a private residence, a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation or drug possession exists.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. However, members of independent media complained that the government restricted access to some information and events, providing preferential access to government media sources. In November the independent press was limited in reporting on a public session in the Senate where government-controlled media were unrestricted.

The government did not restrict academic freedom or access to the Internet.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The constitution explicitly calls for respect for Christian values.

Societal Abuses and Discrimination.—There were no reports of societal violence or discrimination, including anti-Semitic acts. There is a local Jewish community of approximately 200 persons.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—Although the country is a signatory to both the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a consistent system for providing protection to all refugees and asylum seekers. The government particularly faced difficulties with regard to Haitian migrants. All Cuban migrants were given the opportunity to apply for asylum. In practice the government generally provided protection against *refoulement*, the return of persons to a country where they feared persecution. Applications for political asylum were adjudicated on a case-by-case basis at the cabinet level.

The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. Although the government asserted that all migrants who claimed asylum were interviewed by trained immigration officials, AI disputed this claim. The UNHCR reviewed the interview records of cases they were provided and offered recommendations on certain cases. Local and international human rights observers criticized the government for failing to screen potential asylum applicants adequately. These organizations claimed that some Haitians with a legitimate fear of persecution were repatriated without having the opportunity to make a claim for asylum. There was a lack of Creole-speaking immigration officers, and Haitian migrants often were unaware of their right to claim asylum, resulting in limited requests for asylum screening. In addition those requesting asylum screening often lacked access to legal counsel. The government denied it inadequately screened potential asylum applicants.

The Department of Immigration reported that through October, approximately 3,200 persons were repatriated to their home countries. The authorities did not grant asylum during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The two principal political parties are the ruling PLP and the opposition Free National Movement (FNM). In 2002 national elections generally considered free and fair, the PLP won 29 of 40 seats in the House of Assembly and formed the new government under Perry Christie. The FNM won seven seats, and independents won four.

The 40-seat House of Assembly had 8 elected female members; there were 7 appointed female senators, including the president of the Senate. A woman served as deputy prime minister and minister of national security. Women also headed several other ministries. Information on racial background was not collected, but it was estimated that there were four members of minorities in parliament and none in the cabinet.

Government Corruption and Transparency.—There were isolated allegations of government corruption during the year. Eight matters were reported to the complaints and corruption branch of the RBPF during the year, resulting in criminal prosecutions for bribery and five pending investigations. The public was concerned with any report of corruption but did not perceive corruption to be a widespread problem.

There were no laws providing for public access to government information. Members of the local press complained that the government failed to regularly provide open access to information, but the government did not respond to such criticism.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The government generally respected in practice the constitutional provisions for individual rights and freedoms regardless of race, place of origin, political opinion, creed, or gender. However, the constitution and the law contained certain provisions that discriminated against women.

Women.—Violence against women continued to be a serious, widespread problem. The law prohibits domestic violence, and the government generally enforced the law. However, domestic violence laws do not provide penalties separate from other crimes of assault and battery, and the law does not criminalize sexual violence within a marriage. The RBPF reported that 9 of the 44 recorded killings through November were the result of domestic violence. Police received an estimated one thousand domestic violence complaints for the year. Women's rights groups cited a general reluctance on the part of law enforcement authorities to intervene in domestic disputes. The police recognized domestic violence as a high priority, provided specialized training for all incoming officers, and offered continuing training in domestic violence. The police force specifically made efforts to increase awareness of domestic violence in the Family Islands. The courts impose various legal constraints to protect women from abusive spouses or companions. Advocates for women's rights

saw a need to improve the effectiveness of enforcement of court orders and a need for improved legal aid for women. Women's rights advocates also sought improvements to the domestic violence law, including criminalization of spousal sexual abuse.

The government operated a toll-free hot line in New Providence and Grand Bahama, with trained volunteers to respond to emergency calls 24 hours a day. Government and private women's organizations conducted public awareness campaigns highlighting the problems of abuse and domestic violence. The Ministry of Social Services, in partnership with a private company, operated a safe house to assist battered women.

Rape is illegal. The maximum penalty for a first-time offender is 7 years' imprisonment and, in the case of a second or subsequent conviction, the penalty is 14 years' imprisonment. On occasion rapists were given life sentences. Some rape accusations brought by foreign victims did not result in formal charges. According to the RBPF, there were 80 rapes reported, a decrease from 86 in 2004. More than half of the victims knew their attacker. The RBPF credited public outreach programs and the involvement of the Department of Social Services, the Crisis Center, and the Adolescent Clinic for this decrease. Prosecutions and convictions on rape charges were common, and the maximum penalty frequently was applied.

Prostitution is illegal and was not a widespread problem. In November 2004 police raided a local strip club and arrested all 76 persons present. Authorities charged several individuals with "soliciting for immoral purposes" under antiprostitution laws. Following a June raid on a second strip club, dancers and staff of the club were similarly charged. In a September decision a local court found that the strip club activities did not violate prostitution laws.

There are no laws specifically addressing sex tourism. Police officials acknowledged that sex entertainment was a developing industry, but did not consider sex tourism a problem.

The law prohibits criminal "quid pro quo" sexual harassment, and authorizes penalties of up to five thousand dollars and a maximum of two years' imprisonment. Civil rights advocates complained that criminal prohibitions were not effectively enforced, and that civil remedies, including a prohibition on "hostile environment" sexual harassment, were needed.

The law does not provide women with the same right as men to transmit citizenship to their foreign-born spouses. The law also makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. The law does not include gender as a basis for protection from discrimination. Women continued to advocate an amendment to the constitution and revision of related laws to redress this situation. Women were generally free of economic discrimination, and the law provides for equal pay for equal work.

Children.—The government claimed child welfare and education were priorities but lacked sufficient funding to maintain and improve standards.

Public schools lacked basic educational materials, and facilities were overcrowded and substandard. Public education is compulsory and free for children through the age of 16, and most children attended school until that age. Cultural biases often forced unwed, pregnant teenagers to leave public schools, and a quasi-governmental group continued to seek to create an alternative school program for these girls.

Both the government and civic organizations conducted public education programs aimed at child abuse and appropriate parenting behavior; however, child abuse and neglect remained serious problems. During the summer months, the RBPF operated a hot line in response to an increase in the number of reports of missing or exploited children.

From January through August, the Ministry of Social Services reported 387 cases of child abuse, including 31 reports of incest, 120 reports of physical abuse, 47 reports of sexual abuse, 177 reports of neglect, 6 reports of verbal abuse, and 6 reports of abandonment. The ministry estimated that only one-third of cases were reported.

The law requires that all persons who have contact with a child they believe to be sexually abused report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believed occurred quite frequently. The police referred reported cases of sexual and physical abuse to the Ministry of Social Services, which investigates them and can bring criminal charges against perpetrators. The ministry may remove children from abusive situations if the court deems it necessary. The ministry operated a center for abused and neglected children.

The Ministry of Social Services is responsible for abandoned children up to 18 years of age but had very limited resources at its disposal. The government hospital housed eight abandoned children (all of whom had physical disabilities) during the year, as there was no effective foster care program in which to house them.

Trafficking in Persons.—Although there are no laws that specifically address trafficking in persons, the law prohibits prostitution and the procurement of persons for purposes of prostitution either in or outside the country by force, threats, intimidation, or the administering of drugs. The maximum penalty for prostitution is five years' imprisonment; procurement for the purpose of prostitution carries a penalty of eight years' imprisonment.

There were no specific reports that persons were trafficked within, to, or from the country, but concerns were increasing.

The lack of a legal prohibition may have obscured trafficking within the vulnerable illegal migrant communities. In June the International Organization of Migration (IOM) issued a report on human trafficking suggesting a link between irregular migration and forced labor for domestic servitude, agriculture, and construction. In March IOM hosted an antitrafficking meeting and training that included government and civil society participants.

Persons with Disabilities.—There is no specific law protecting persons with physical or mental disabilities from discrimination in employment, education, access to health care, or in the provision of other state services. Although the law mandates access for persons with physical disabilities in new public buildings, the authorities rarely enforced this requirement, and very few buildings and public facilities were accessible to persons with disabilities. Advocates for persons with disabilities complained of widespread job discrimination and general apathy on the part of private employers and political leaders toward the need for training and equal opportunity.

The Disability Affairs Unit of the Ministry of Social Development and National Insurance worked with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations that offered services for persons with disabilities, to provide a coordinated public and private sector approach to the needs of persons with disabilities. A mix of government and private residential and nonresidential institutions provided limited education, training, counseling, and job placement services for adults and children with both physical and mental disabilities.

In June following a dispute over the closure of the Cheshire Home for the Physically Disabled, residents were forcefully evicted from the home by cutting power, water and phone service from the home, then boarding windows, with residents still inside. Disability advocates claimed that the government was complicit in the closure and failed to prevent the eviction. A lawsuit was pending at year's end.

National/Racial/Ethnic Minorities.—According to unofficial estimates, between 10 and 25 percent of the population are Haitians or citizens of Haitian descent, making them the largest and most visible ethnic minority. Many persons of Haitian origin lived in shantytowns with limited sewage, garbage, law enforcement, or other infrastructure. Haitian children generally were granted access to education and social services, but some Haitians complained of discriminatory treatment in education.

Anti-Haitian prejudice and resentment regarding continued Haitian immigration was common. Observers reported that efforts by the authorities to stem the influx of illegal Haitian immigrants, and efforts by politicians to appear tough on immigration, fueled anti-Haitian attitudes. Interethnic tensions and inequities persisted, and observers believed tensions have escalated. Members of the Haitian community complained of discrimination in the job market, specifically that identity and work permit documents were controlled by employers seeking leverage by threat of deportation. Individuals born in the country to Haitian parents were required to pay the tuition rate for foreign students while waiting for their request for citizenship to be processed.

In January a dispute over police handling of a traffic accident led to two days of violence in a Haitian neighborhood of Nassau. Residents claimed that police shouted anti-Haitian slurs and were aggressive towards the gathering crowd. The crowd reacted violently, burning cars and throwing objects at police. Five persons were injured, and authorities arrested and prosecuted individuals with Haitian surnames.

Other Societal Abuses and Discrimination.—Social discrimination against homosexuals occurred. There was widespread homophobia and religiously based opposition to homosexuality. Although homosexual relations between consenting adults are legal, there was no legislation to address the human rights concerns of homosexuals, lesbians, bisexuals, or transgendered persons. The government actively promoted opposition to homosexuality.

In September Miss Teen Bahamas was stripped of her title after she said she was lesbian. Also in September public school teachers punished students wearing clothing perceived to identify them as homosexual or advocates of homosexuality. There were continued reports of job termination following disclosure of sexual orientation, as well as discrimination in housing.

Section 6. Worker Rights

a. The Right of Association.—The law provides labor unions with the right of free assembly and association, and workers exercised these rights in practice. Private sector and most public sector workers may form or join unions without prior approval. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions. Almost one-quarter of the work force (and 80 percent of the workers in the important hotel industry) belonged to unions.

Under the law labor disputes first are filed with the labor ministry and then, if not resolved, are transferred to an industrial tribunal. The tribunal follows normal court procedures for the admission of evidence, direct examination, and cross-examination. The tribunal's decision is final and only can be appealed in court on a strict question of law. Some employers complained that the industrial tribunal was biased unfairly in favor of employees.

b. The Right to Organize and Bargain Collectively.—Workers freely exercised their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiated wage rates without government interference.

The law provides for the right to strike, and while workers exercised this right in practice, the government has the right to intervene in the national interest to assure delivery of essential services. The Industrial Relations Act requires that, before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Ministry of Labor and Immigration must supervise the vote.

Freeport is a specially designated free trade zone. Labor law and practice in this zone do not differ from those in the rest of the country. However, human rights advocates asserted that the Port Authority allowed the Hong Kong-based company Hutchison-Whampoa, which owns the harbor, airport, and many major hotels in Freeport, to discourage unions.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the law prohibits the employment of children under the age of 14 for industrial work or work during school hours, some children worked part-time in light industry and service jobs. Children under the age of 16 may not work at night. There was no legal minimum age for employment in other sectors. The Ministry of Labor and Immigration is responsible for enforcing these laws.

In June the Ministry of Labor and Immigration hosted a national conference on child labor and hazardous occupations. While no current data were available, the labor minister relied upon a 2002 ILO report to estimate approximately 52 children involved in the worst forms of child labor: 4 related to slavery/bondage or the sexual exploitation of children through incestuous relationships; 9 related to illicit or unlawful activities; 4 to hazardous activities; and 35 to commercial sexual activities. The government considered the 2002 ILO report an accurate reflection of conditions during the year.

e. Acceptable Conditions of Work.—The minimum wage for government employees, set in 2000, was \$4.45 (B\$4.45) per hour. A minimum wage for the private sector was established in 2002 at \$4.00 (B\$4.00) per hour. The minimum wage did not provide a decent standard of living for a worker and family. The law provides for a 40-hour workweek, a 24-hour rest period, and requires time-and-a-half payment for hours worked beyond the standard workweek.

The Ministry of Labor and Immigration is responsible for enforcing labor laws and has a team of inspectors that conducts on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints; however, inspections occurred infrequently. The ministry normally announced inspection visits in advance, and employers generally cooperated with inspectors to implement safety standards.

The national insurance program compensates workers for work-related injuries. The law does not provide a right for workers to remove themselves from dangerous work situations without jeopardy to continued employment.

BARBADOS

Barbados is a constitutional democracy with a population of approximately 278 thousand. In the 2003 parliamentary elections, which were considered generally free and fair, citizens returned Prime Minister Owen Arthur of the Barbados Labour

Party (BLP) for a third successive term in office. The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were problems in a few areas:

- excessive use of force by police
- poor prison conditions
- societal violence against women and children

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—While the government or its agents did not commit any politically motivated killings, two prisoners died while in temporary detention facilities following the Glendairy Prison fire. Authorities charged an inmate with the killing of Junior Boyce and were investigating the police shooting of inmate Dwayne O'Brian Harding at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the law specifically prohibits torture and inhuman or degrading punishment or other treatment, there were reports that police sometimes used excessive force. The majority of complaints against the police alleged unprofessional conduct and beating or assault. Police regularly were accused of beating suspects to obtain confessions, and suspects often recanted their confessions during their trial. There were numerous cases where the only evidence against the accused was a confession.

No information was available regarding complaints received by the Police Complaints Authority or how they were handled (see section 1.d.).

Prison and Detention Center Conditions.—Prison conditions remained poor. Glendairy Prison, the nation's sole prison, was a 150-year-old structure designed to hold 350 prisoners that routinely held more than a thousand prisoners. In March prisoners rioted and set fire to the prison, causing such severe damage that the government decided to abandon it permanently. One prisoner, Junior Boyce, was killed, and several were injured in fighting that broke out among prisoners. Prison guards and police also injured several prisoners in the process of regaining control of the facility. On March 31, security personnel reportedly shot and injured prisoners Glenroy Bruce and Winston Small during a confrontation with a prison guard. The government declared a state of emergency that authorized the use of soldiers from the Barbados Defense Force (BDF) to assist prison guards and police officers in securing the prison. A contingent of 120 security personnel from the Regional Security System was brought in from neighboring countries to assist as well.

The damage necessitated the removal of nearly one thousand prisoners to several temporary holding facilities, including a fort used by the BDF and a former warehouse. Authorities had difficulty maintaining order at these facilities and fights frequently broke out among prisoners. On April 10, guards reportedly shot and killed Dwayne O'Brian Harding at one of these facilities after he and other prisoners failed to obey orders to stop fighting. Another prisoner was also injured by gunshots during the disturbance.

On April 11, the government announced that all prisoners had been moved to a temporary prison constructed at Harrison Point until a permanent prison could be built. Conditions at the temporary prison were inadequate.

Keith Fields, held at the temporary prison while awaiting trial, told a judge that conditions at the prison were dangerous. Fields said he had to be hospitalized after being beaten and stabbed by other prisoners. On April 30, Deryck Smith, a prisoner held at the temporary prison, died after reportedly suffering an asthmatic attack. On May 24, prisoner Darcy Bradshaw fell into a coma and died in the hospital after having become ill at Harrison Point.

In May the press reported complaints by prisoners and their families about inadequate conditions at the temporary prison, including unsanitary cells, inedible food, and unclean drinking water. Family members complained that they were denied the opportunity to visit their relatives in prison and that prison authorities had failed to inform them in a timely manner when prisoners had serious health problems that resulted in their being taken to the hospital. Attorneys also complained that they were denied the ability to see their clients held at Harrison Point and other facilities. The superintendent of prisons responded that the emergency situation necessitated temporary restrictions on visits but that attorneys were allowed to visit prisoners.

The government also characterized the temporary prison as an improvement over the former prison, with several buildings spread over 65 acres, compared with the 39-acre Glendairy. The temporary prison also had separate facilities for persons on remand awaiting trial as well as for female prisoners, both of which the government described as improvements over the former prison.

In September the government announced that construction had begun on a new permanent prison. The Harrison Point facility held approximately 900 prisoners; the new facility, which will have a capacity of 1,200 prisoners, is due to be completed by January 2007.

While the government normally permitted prison visits by independent human rights monitors, no such visits were known to have taken place during the year at the Harrison Point facility.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and imprisonment, and the government generally respected these prohibitions in practice.

Role of the Police and Security Apparatus.—The Royal Barbados Police Force (RBPF) numbered 1,394—including 110 Special Constables—and is responsible for internal law enforcement. While still a male-dominated profession, the number of female recruits to the RBPF was on the rise. The small BDF protects national security and may be called upon to maintain public order in times of crisis, emergency, or other specific need. The RBPF reports to the minister of home affairs, and the BDF reports to the minister of defense and security. Although the police largely were unarmed, special RBPF foot patrols in high crime areas carried firearms in response to public concern. An armed special rapid response unit continued to operate. The law provides that the police can request the BDF to assist them as needed with special joint patrols.

The Office of Professional Responsibility, headed by a superintendent, handled complaints of inappropriate police conduct. In 2004 an independent Police Complaints Authority (PCA) began operating to review complaints against the police. No information was available as to its operations; during the year the PCA's chairman resigned, and a new one had not been appointed by year's end.

Arrest and Detention.—Police are authorized to arrest persons suspected of criminal activity; a warrant is typically required. The law permits detainees to be held without charge for up to one week; however, once charged, detainees must be brought before a court without unnecessary delay. There is a functioning bail system. Criminal detainees were given prompt access to counsel and were advised of that right immediately after arrest. Although access to family members generally was permitted, several families complained that they did not receive regular access in the weeks immediately following the prison fire. Authorities confirmed this, asserting that it was necessary until appropriate security provisions could be made at the temporary holding facilities.

Police procedures provide that the police may question suspects, and other persons they hold, only at a police station, except when expressly permitted by a senior divisional officer. An officer must visit detainees at least once every three hours to inquire about the detainees' condition. After 24 hours the detaining authority must submit a written report to the deputy commissioner. The authorities must approve and record all movements of detainees between stations.

There were no reports of political detainees.

There were 242 prisoners in pretrial detention at year's end.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary includes the courts of first instance, or magistrate's courts, and the Supreme Court of Judicature, which consists of the High Court and the Court of Appeals. The Privy Council in the United Kingdom was the final court of appeal until the government withdrew from it in April and adopted legislation making the new Caribbean Court of Justice its final appellate court.

Trial Procedures.—The law provides that persons charged with criminal offenses be given a fair public hearing without unnecessary delay by an independent and impartial court, and the government generally respected this right in practice. The judicial system provides for the right of due process at each level. The law presumes defendants innocent until proven guilty; they have the right of appeal. The government provided free legal aid to the indigent in family matters, child support, criminal cases such as rape or murder, and all cases involving minors.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

The government did not censor mail, but it restricted the receipt and importation of foreign publications deemed to be pornographic.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

In April the press reported that members of the Rastafarian community complained about a new legal measure that allows prison authorities to cut the hair of prisoners considered to be security risks. The Rastafarians said this infringed upon their religious practices, which includes the wearing of long hair in dreadlocks. Prison authorities argued that security considerations following the prison riot in March required that they be allowed to cut a prisoner's hair if it was believed the prisoner might hide weapons or contraband in the long hair.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For more detailed information, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and it was not used.

Protection of Refugees.—The government has not formulated a policy regarding refugees or asylum. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In the 2003 elections, the BLP, led by Prime Minister Owen Arthur, won its third parliamentary election, returning to office with a 23 to 7 seat majority over the Democratic Labour Party.

Approximately one-third of cabinet members were women, including the deputy prime minister, who served concurrently as the attorney general and minister of home affairs. There were 4 women and no minorities in the 30-seat House of Assembly. There were 7 women and 3 minorities in the 21-member Senate.

Government Corruption and Transparency.—The public perception of corruption in government was reportedly low.

There was no law providing citizens access to information held by the government. While access to information was provided on government Web sites, responses to requests for specific government information by citizens and other interested parties often were slow.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equal treatment regardless of race, religion, or gender, and the government generally respected these provisions in practice.

Women.—Violence and abuse against women continued to be significant social problems. Spousal abuse remained a significant problem during the year, despite legal protections against spousal rape for women holding a court-issued divorce decree, separation order, or nonmolestation order. The law prohibits rape, and the maximum penalty for it is life imprisonment.

The law prohibits domestic violence, provides protection to all members of the family, including men and children, and applies equally to marriages and to com-

mon law relationships. Penalties depend on the severity of the charges and range from a fine for first-time offenders (unless the injury is serious) up to the death penalty for a killing. The courts heard a number of cases of domestic violence against women involving assault or injury. Victims may request restraining orders, which the courts often issued. The courts can sentence an offender to jail for breaching such an order. The police have a Victim Support Unit, made up of civilian volunteers, which offered assistance primarily to female victims of violent crimes.

There were public and private counseling services for victims of domestic violence, rape, and child abuse. The Business and Professional Women's Club operated a crisis center staffed by trained counselors and provided legal and medical referral services. The government funded a shelter for battered women, operated by nongovernmental organizations (NGOs), which accommodated up to 20 women and children. The shelter offered the services of trained psychological and physiological counselors to victims of domestic violence.

Prostitution is illegal, but it remained a problem, fueled by poverty and tourism. The media occasionally reported on prostitution, usually in the context of concern over HIV/AIDS. There is no statute specifically prohibiting sexual tourism, and no statistics on it, but anecdotal evidence suggested that it occurred.

The law does not deal with sexual harassment, and sexual harassment in the workplace was a problem, but no statistics were available. An advocacy group called the Coalition on Sexual Harassment worked with the Department of Labor, among others, to develop legislation on this issue. Media reports often indicated that women were afraid to report sexual harassment because they feared retribution in the workplace. The Barbados Workers Union (BWU) continued to seek guidelines on sexual harassment in contracts and agreements it concluded with employers.

The Office of Gender Affairs in the Ministry of Social Transformation worked to ensure the rights of women. Women actively participated in all aspects of national life and were well represented at all levels of the public and private sectors. A Poverty Eradication Fund focused on encouraging entrepreneurial activities to increase employment for women and youth. The government reported that the number of female applicants for the police force, as well as for other jobs traditionally held by men, continued to increase. Women have equal property rights, including after a divorce.

Children.—The government was committed to children's human rights and welfare, although violence and abuse against children remained serious problems.

Education was free, compulsory, and universal until the age of 16. The government estimated that 98 percent of children between the ages of 5 and 16 attended school. The highest educational level achieved by most children was secondary school.

The National Health Insurance Scheme provided children with free medical and dental services for most medical conditions.

The Child Care Board has a mandate for the care and protection of children, which involved investigating day care centers and cases of child abuse or child labor, and providing counseling services, residential placement, and foster care. The Welfare Department offered counseling on a broad range of family-related issues, and the Child Care Board conducted counseling for child abuse victims.

Trafficking in Persons.—No laws specifically address trafficking in persons, although laws against slavery and forced labor could be applied. There were reports that persons were trafficked to the country.

In June the International Organization for Migration (IOM) released an exploratory assessment that identified the country as one of several in the region to which people were trafficked. The findings of the report suggested that persons were trafficked, both to work as prostitutes and as domestic workers. Persons also reportedly were trafficked to work in the construction and garment industries, where they were subject to low wages and false contracts. The IOM noted that in cases where trafficking may have occurred, the government typically deported the persons suspected of being trafficked and failed to investigate or prosecute the alleged traffickers.

In November the government deported 14 persons who had been trafficked to the country from India. According to press reports, the trafficked persons said they came to work for an India-based construction company that falsely claimed to have acquired work permits for them. The Indian migrant workers walked off the job in November to protest low pay, poor living conditions, and the inadequate food provided by their employer. The government deported them several days later. The BWU criticized the government for punishing the workers and not the traffickers; at year's end a government investigation into whether the migrants' employer had broken the law was under way.

Although prostitution is illegal, a number of brothels with women from Guyana, the Dominican Republic, and other Caribbean islands operated in the country. The police periodically raided brothels and deported women found working illegally. Authorities reportedly did not use screening procedures before deportations to determine whether these women were trafficking victims.

The government's Bureau of Gender Affairs, working in conjunction with NGOs, initiated a public education program to heighten awareness about potential human trafficking.

Persons with Disabilities.—Other than constitutional provisions asserting equality for all, there are no laws that specifically prohibit discrimination against persons with disabilities in employment, education, or the provision of other state services. In practice persons with disabilities faced discrimination. Informal surveys suggested that there were 10 thousand to 12 thousand persons with disabilities in the country. The Ministry of Social Transformation operated a Disabilities Unit to address the concerns of persons with disabilities, but parents complained of added fees and transport difficulties for children with disabilities at public schools.

While there is no legislation mandating provision of accessibility to public thoroughfares or public or private buildings, the Town and Country Planning Department set provisions for all public buildings to include accessibility to persons with disabilities. As a result, the majority of new buildings had ramps, reserved parking, and special sanitary facilities for such persons.

Other Societal Abuses and Discrimination.—There are no laws that prohibit discrimination against a person on the basis of sexual orientation in employment, housing, education, or health care. Although no statistics were available, anecdotal evidence suggested that societal discrimination against homosexuals occurred.

The government initiated programs designed to discourage discrimination against HIV/AIDS infected persons and others living with them.

Section 6. Worker Rights

a. The Right of Association.—Workers freely exercised their right to form and belong to trade unions. Approximately 19 percent of the 148-thousand-person workforce was unionized; unionized workers were concentrated in key sectors, such as transportation, government, and agriculture.

Although employers were under no legal obligation to recognize unions under the law, most did so when a significant percentage of their employees expressed a desire to be represented by a registered union. While there is no specific law that prohibits discrimination against union activity, the courts provide a method of redress for employees who allege wrongful dismissal. The courts commonly awarded monetary compensation but rarely ordered reemployment.

b. The Right to Organize and Bargain Collectively.—Workers exercised the legal right to organize and bargain collectively. Since 1993 a series of negotiated protocols have contained provisions for increases in basic wages and increases based on productivity. Government, the private sector, and labor representatives signed a fifth such protocol in May.

There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice. All private and public sector employees are permitted to strike, but essential workers may strike only under certain circumstances and after following prescribed procedures.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides for a minimum working age of 16, and this provision generally was observed in practice. Compulsory primary and secondary education policies reinforced minimum age requirements (see section 5). The Labor Department had a small cadre of labor inspectors who conducted spot investigations of enterprises and checked records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers.

e. Acceptable Conditions of Work.—The law provides for and the authorities establish minimum wage rates for specified categories of workers. The categories of workers with a formally regulated minimum wage are household domestics and shop assistants. The minimum wage for these employees was \$2.50 (BDS\$5) per hour, which provided a decent standard of living for a worker and family; most employees earned more than the minimum wage. The Labor Department within the Ministry of Labor and Social Security was charged with enforcing the minimum wage. There

were occasional press reports alleging that migrant workers received less than the minimum wage.

The standard legal workweek is 40 hours in 5 days, and the law requires overtime payment for hours worked in excess. The law prescribes that all overtime must be voluntary.

In August parliament passed the Occupational Safety and Health at Work Act, but by year's end the government had not issued regulations pursuant to the act. The Labor Department enforced other health and safety standards and followed up to ensure that management corrected problems cited. The law requires that in certain sectors firms employing more than 50 workers create a safety committee, which could challenge the decisions of management concerning the occupational safety and health environment. Trade union monitors identified safety problems for government factory inspectors to ensure the enforcement of safety and health regulations and effective correction by management. The Labor Department's Inspections Unit conducted several routine annual inspections of government-operated corporations and manufacturing plants. Workers had the right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment.

BELIZE

Belize is a constitutional parliamentary democracy with an estimated population of 282,600. Prime Minister Said Musa's People's United Party held 22 of the 31 seats in the House of Representatives following generally free and fair multiparty elections in 2003. Although the civilian authorities generally maintained effective control, some members of the security forces committed human rights abuses.

Whereas the government generally respected the human rights of its citizens, there were problems in some areas. The following human rights problems were reported:

- extrajudicial killings by security forces
- brutality and excessive use of force by members of the security forces
- arbitrary arrest and detention and lengthy pretrial detention
- violence and discrimination against women
- sexual abuse of children
- trafficking in persons
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Although the government and its agents did not commit any politically motivated killings, members of the security forces were accused and convicted of unlawful or unwarranted killings.

On August 16, police constable Randy Sanchez shot and killed Andrew Wallace, a 13-year-old youth. Police claimed that the youth was armed and that therefore the shooting was justified. At year's end Sanchez was on administrative leave while the Office of the Director of Public Prosecutions (DPP) investigated the case.

The trial in the case of police constable Burton Caliz, charged with manslaughter in the February 2004 killing of Leroy Pilgrim in San Pedro, was adjourned until 2006.

On November 24, police constable Sheldon Arzu was convicted of manslaughter and sentenced in December to 13 years' imprisonment for the 2003 shooting death of Reuben "Pony" Alarcon on Caye Caulker.

On July 20, authorities convicted police corporal Sherwood Wade of manslaughter by negligence for the killing of Darnell McDonald while off-duty in 2003 and ordered him to pay a fine of \$2 thousand (\$4 thousand BLZ). This was the second trial of this case; the first trial ended in a hung jury. An appeal of the sentence by the DPP on the basis that it was unduly lenient was pending at year's end.

On May 18, the Supreme Court convicted Belize Defense Force (BDF) private Giovanni Gutierrez of manslaughter and police constable Dennis Palacio of abetment of manslaughter in the 2002 killing of Aaron Mariano. Both were sentenced to 10 years in prison. Gutierrez and Palacio filed appeals pending at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the constitution prohibits torture or other inhuman punishment, there were numerous reports that police and prison staff used excessive force.

Common complaints received by the Office of the Ombudsman alleged misconduct and abuse by police and Department of Corrections personnel. Several cases of alleged abuse featured in the press were never reported to the Office of the Ombudsman or to the Office of Internal Affairs and Discipline for investigation. In a number of cases, the government ignored reports of abuses, withheld action until the case had faded from the public's attention, and then failed to take punitive action or transferred accused officers to other districts. The government took action on 74 of 81 complaints registered with the Office of Internal Affairs and Discipline. The ombudsman's office received 109 general complaints of police abuse and resolved 101 cases. The ombudsman determined that police use of force was appropriate in the majority of cases investigated, even if the level of force used was sometimes excessive.

At year's end the Office of Internal Affairs was investigating the claim by John and Frans Faux that Dangriga police tortured them in July by means of electric shock and beating.

A Supreme Court hearing was scheduled for 2006 in the case of police constable Julio Shal charged in March 2004 with attempted killing, deadly means of harm, and possession of a firearm while under the influence of alcohol, resulting in the shooting injury of Pedro Guzman.

During the year authorities dropped the charges of dangerous harm brought against police constable Clayton Marin in connection with the 2004 beating of Emile Pinelo. Charges of dangerous harm brought against former police constable Cyril Wade in connection with the same beating were maintained, with a civilian trial date to be set for Wade in 2006.

On January 5, authorities acquitted police superintendent Ewart Itza of all charges stemming from a 2003 brutality investigation. Prosecutors appealed his case to the Supreme Court, and the appeal was pending at year's end.

Prison and Detention Center Conditions.—Prison conditions were poor, but improved in relation to previous years, in part due to the efforts of nongovernmental organizations (NGOs) and a private foundation. The country's only prison, in Hattieville, which was designed for 1,200 inmates, held approximately 1,300 adult male inmates, 28 female inmates, and 54 youth male inmates. Whereas the prison budget provided \$6 (\$12 BLZ) per prisoner per day to cover all operating costs, a local nonprofit organization, the Kolbe Foundation, which administered Hattieville Central Prison under a Ministry of Home Affairs contract, reported that actual costs were \$7.50 (\$15 BLZ) per inmate per day. In the remands section of the prison, 301 detainees shared 40 15- by 20-foot cells that were designed to hold 150 persons.

During the year the Kolbe Foundation's efforts focused on rehabilitation, resulting in improvements in the prison system in the following areas: enhanced work-release opportunities; jobs skills training, including the establishment of a wood furniture and crafts workshop and a financial savings program for prisoners; and enhanced internal security that included supervised prisoners' access to cell phones for prisoners to report alleged abuses by guards. The government's Women's Department provided counseling and educational services for female inmates. By year's end the prison's youth facility had retained four full-time teachers and one full-time counselor.

During the year there were reports that prison authorities brutalized troublesome prisoners, including placing inmates in a small, unlit, and unventilated punishment cell called "supermax." Inmates claimed that prison officials sometimes withheld food and water as further punishment, conducted strip searches and beatings, and extorted money for transfers to better conditions.

The Kolbe Foundation investigated reports of abuse or excessive force by prison officials. On May 9, the Kolbe Foundation, by means of an internal tribunal, dismissed three senior prison officers, including the chief of security, for alleged brutality and bribery. Matters of inmate-on-inmate abuse were directly turned over to police. Prisoners convicted or accused of certain serious crimes such as child molestation often were held in the remands section of the Hattieville prison for their protection.

The prison included a separate facility for women, located 200 yards outside the main compound. Conditions in the women's facility were significantly better than those in the men's compound. The government does not incarcerate female juveniles charged or convicted of crimes, but rather places them in the care of the government social services authorities. During the year there were no female juveniles in the custody of the social services authorities. Juvenile male prisoners lived in a separate, newly built facility outside the main perimeter fence.

First-time offenders were put in the same building as those who committed capital crimes.

The government permitted prison visits by independent human rights observers, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—Although the constitution and legislation prohibit arbitrary arrest and detention, and the government generally observed these prohibitions, there were accusations of arbitrary arrest and detention.

Role of the Police and Security Apparatus.—Internal security was maintained by national and local police under the Office of the Commissioner of Police. The Ministry of Home Affairs supervised the Department of Police and the Department of Immigration and Customs, which also had national security responsibilities. The BDF, under the Ministry of Defense, handled external security and also had some domestic security responsibilities and supplied approximately 72 soldiers daily to the Office of the Commissioner of Police. The 1,014-member national police force had a hierarchical structure and generally responded to complaints. A lack of government resources, including low pay for officers as well as corruption, remained problems. During the year there were no reported cases of high-level or systemic impunity of security authorities.

The Police Department's Internal Affairs and Discipline (IAD) section, the DPP, and the Office of the Ombudsman investigated allegations of police abuses. On May 18, the government re-instituted a police complaints board comprised of the ombudsman, the Ministry of Home Affairs, and the Office of the Commissioner of Police. The IAD handled 184 complaints, including 81 for alleged brutality, against the police resulting in the dismissal or disciplining of 74 officers. During the year there was a 33 percent decrease in complaints and an increase in disciplinary action against police authorities alleged to have committed abuses.

Arrest and Detention.—Police were required to obtain search or arrest warrants issued by a magistrate, except in cases of hot pursuit, when there was probable cause, or when the presence of a firearm was suspected. Customs officers could search a premise with a writ of assistance issued by the Office of the Comptroller of Customs. The law requires police to formally (in writing) inform a detainee of the cause of detention within 48 hours of arrest and to bring the person before a magistrate to be charged within a reasonable time (normally 24 hours). In practice arresting police informed detainees immediately of the charges against them.

Police were required to follow "The Judges' Rules," a code of conduct governing police interaction with arrested persons. Although cases were sometimes dismissed when the Judges' Rules were violated, more commonly a confession obtained through violation of these rules was deemed invalid. Detainees usually were granted timely access to family members and lawyers, although there were occasional complaints that inmates were denied access or a phone call after arrest. Bail was available for all cases except killing and generally was granted. In cases involving narcotics, the law does not permit police to grant bail, but a magistrate's court may do so after a full hearing.

Detainees sometimes could not afford bail; backlogs in the docket often caused considerable delays and postponement of hearings, resulting in an overcrowded prison and at times prolonged pretrial detention. By year's end approximately 23 percent of the prison population was in pretrial detention (see sections 1.c. and 1.e.).

On January 20, police in the town of Hattieville detained Belize Energy Workers Union President Mark Butler reportedly for having harmful tools in his vehicle while transporting other union members to a demonstration. The union leader and members later were released on the same day only when opposition leader Dean Barrow phoned the police commissioner, who ordered their release from the police station.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected this provision in practice. The constitution is the supreme law of the land and persons have the right to bring legal actions for alleged violations of rights protected under the constitution, regardless of whether there is also implementing legislation.

Judges hold appointments until a mandatory retirement age of 65. There were 5 Supreme Court justices and 17 magistrates. Only three magistrates had a legal background. Most judges were members of the civil service and routinely were transferred between judicial and administrative postings. The government appoints the DPP for life. The DPP reported no attempted political interference with his job.

The judiciary consists of the *alcalde* courts, which have jurisdiction over small civil claims and minor criminal infractions, the magistrate's courts, the Supreme Court, the Court of Appeals, and a family court that handles cases of child abuse,

domestic violence, and child support. The family court is at the same level as the magistrate's courts. Family court trials generally were private. The defendants in family court may appeal to the Supreme Court. Those convicted by either a magistrate's court or the Supreme Court may appeal to the Court of Appeals. In exceptional cases, including those resulting in a capital sentence, the convicted party may make a final appeal to the Privy Council in the United Kingdom. Trial by jury is mandatory in capital cases.

Under the law persons accused of civil or criminal offenses have the following rights: presumption of innocence, protection against self-incrimination, defense by counsel only in capital cases, a public trial, and appeal. Defendants have the right to be present at their trial unless the court determines that the opposing party has a substantiated fear for safety, and in cases, the court can grant interim provisions that both parties be addressed individually during a five-day period.

The government provided legal counsel for indigent defendants only in cases involving capital crimes. Most defendants could not afford an attorney, and there was a higher rate of conviction of defendants without legal representation. From January through June, the only staff attorney of the Legal Aid Center handled approximately 260 cases, but many defendants remained unrepresented. A severe lack of trained personnel constrained the judicial system, and very junior counsels or police officers often acted as prosecutors in the magistrate's courts.

Lengthy trial backlogs continued in the judicial system. Routine cases without a defense attorney were decided within one month, but cases involving a serious crime or in which a defense attorney was present took more than one year. Citing uncooperative witnesses and a lack of evidence, the DPP dismissed a large number of cases. Despite an increase in serious crimes, poor case management, lack of attorney discipline, and the prolongation of several cases for years, the backlog of cases decreased, largely because many cases were dismissed.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution prohibits such practices, and government authorities generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. The constitution, however, permits authorities to forbid any citizen to question the validity of financial disclosure statements submitted by public officials. Anyone who questions these statements orally or in writing outside a rigidly prescribed procedure is subject to a fine of up to \$2,500 (\$5 thousand BLZ), imprisonment of up to 3 years, or both. There were no reports that this prohibition was used during the year.

The independent media presented a range of viewpoints without restriction. The international media operated freely. All newspapers were subject to libel laws which, unlike in previous years, were enforced during the year.

On June 12, pursuant to a suit brought in 2003 by the prime minister, the Libel Court ordered *The Guardian* newspaper, affiliated with the Opposition United Democratic Party, to issue a public apology for writing in 2003 that Prime Minister Said Musa was corrupt, acted out of political spite, and had close links to organized crime mafia.

The Belize Broadcasting Authority regulated broadcasting and had the right to preview certain broadcasts, such as those with political content, and to delete any defamatory or libelous material from political broadcasts. This right was not exercised during the year.

There were no government restrictions on the Internet or on academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. By law organizers of public meetings of more than 5 persons must obtain a permit 36 hours in advance of the meeting. There were no reports that permits were denied for political reasons.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish population constituted less than 10 persons.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides for these rights, and the government generally respected them in practice.

The constitution prohibits forced internal or external exile of citizens, and there were no reports that the government used it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government had not established a system for providing protection to refugees. Since 1999 the government had not accepted asylum applications, and there was no legislation that formalized the asylum process. Until the government closed its Refugee Department in 1999, the UN High Commissioner for Refugees (UNHCR) relied upon a local NGO to monitor the status of asylum seekers and to represent its interests. The government had no procedure in place to accept or resettle refugees. On March 21, seven Cuban refugees landed on the Turneffe Atoll en route to Honduras. At year's end immigration and police authorities had no knowledge of the whereabouts of these persons.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held by secret ballot and on the basis of universal suffrage for all citizens age 18 and older.

Elections and Political Participation.—In 2003 the PUP won reelection in generally free and fair elections.

There were 2 women in the 29-seat House of Representatives, 1 of whom was appointed to serve as Speaker of the House, and 3 women in the 12-member appointed Senate. There was 1 woman in the cabinet, and 5 women were chief executive officers of ministries. Among the country's ethnic groups, Mestizo, Creole, Maya, Garifuna, and other minority and immigrant groups were represented in the National Assembly and at the highest levels of government.

Government Corruption and Transparency.—Evidence of government corruption was revealed during the year. The media continued to report inappropriate investments in 2004 by the Social Security Board and Development Finance Corporation, whereby the government allegedly authorized the use of millions of dollars in public domestic and international loan funds to assist the business interests of certain citizens. A Senate special investigation begun in 2004 continued until December 30 when a confidential report was submitted to the House of Representatives. Government sources indicated that the report was released without pending criminal charges or suggested criminal action against any party.

Mark Espat and Cordell Hyde, members of both the ruling party and members of parliament, continued to speak out against decisions made by the prime minister and ruling government regarding the budget and Belize Telecommunications Limited (BTL). On November 4, Hyde and Espat returned to the cabinet as ministers with portfolio, and both publicly stated their intention to be agents for change from within the government and their party.

Public surveys and Transparency International indicated that perceptions of corruption increased compared to the previous year. In March the Supreme Court investigated the government's sale or obligation of public utilities to foreign investors. The Court of Appeals continued to review a lawsuit brought during the year regarding the 2004 privatization and ownership of BTL.

The law provides for public access to documents of a ministry or prescribed authority upon written request, although it protects a number of categories, such as documents from the courts or those related to national security, defense, or foreign relations. The government must supply to the ombudsman a written reason for any denial of access, the name of the person making the decision, and information on the right to appeal. At year's end the ombudsman's office reported that it had not received any such appeals during the year.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and responsive to their views.

The Human Rights Commission of Belize, an NGO affiliated with regional human rights organizations that had received start up funding from the UNHCR, closed during the year due to lack of adequate financial resources.

The independent ombudsman is appointed by the government to act as an independent check on governmental abuses. In his fifth annual report, the ombudsman reported receiving 342 formal complaints (mostly against government agencies), including: 109 against the Police Department, 28 regarding the Lands Department, 21 against Magistrates Court, 12 against the family court, 11 against the Department of Corrections, and 9 against the Belize City Council. The ombudsman investigated the majority of these cases. The ombudsman was allocated limited resources to conduct investigations. During the year opposition members in parliament continued to debate whether the ombudsman position should be dissolved, based on their platform to reduce the number of contracted positions in the government.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government effectively enforced these prohibitions.

Women.—The law prohibits domestic violence and contains penalties, including imprisonment for violations, depending on the crime. During the year the law was enforced. The law empowers the family court to issue protection orders against accused offenders. Domestic violence against women remained a problem. The Family Violence Unit of the police recorded 1,191 instances of domestic violence against women during the year, of which 57 percent occurred in Belize City. There was one shelter for battered women, containing nine beds and offered short-term housing. The NGO Belize Organization for Women and Development advised women on their rights and provided counseling.

The law prohibits rape, including spousal rape. The government did not effectively enforce the law, which carries penalties of fines up to \$500 (\$1 thousand BLZ) or 1 year imprisonment, and several prominent brothels continued to operate openly. The police and courts treated rape more seriously than in previous years. In a number of instances, the DPP dropped the charges if the accusing party did not testify at trial. Arrests and convictions for rape received widespread press coverage. The police and courts enforced statutory rape laws; however, in relation to the number of accusations, convictions were infrequent. The law does not explicitly address adult prostitution; therefore the government does not use law enforcement resources to combat prostitution. Related activities, such as loitering for the purposes of prostitution, operating a brothel, and sexual solicitation are all illegal.

The law prohibits sexual harassment, which is punishable by a fine of up to \$250 (\$500 BLZ) or imprisonment for up to 3 months. No sexual harassment cases were brought during the year.

Despite legal provisions for gender equality, the media continued to report that women faced social and economic discrimination. On July 25, the BDF ended the practice of dismissing or disciplining female soldiers who became pregnant within their first two years of service. There were no legal impediments to women owning or managing land or other real property. Women were active in all spheres of national life but held relatively few top managerial positions. Although the law mandates equal pay for equal work, women tended to earn less than men. The median monthly income for a working woman was \$353 (\$706 BLZ), compared with \$374 (\$748 BLZ) for a man.

The Women's Department under the Ministry of Human Development, Women and Children, and Civil Society is responsible for developing programs to improve the status of women. A number of officially registered women's groups also worked closely with various government ministries to promote social awareness programs.

Children.—The government was committed to children's rights and welfare.

Education is compulsory for children between the ages of 5 and 15. After finishing primary education, children may enter a secondary school, a government-run apprenticeship program, or a vocational institution. These programs, however, had spaces for only half of the children completing primary school. Education was nominally free, but school, book, and uniform fees placed education out of reach for many poor children. According to a 2003 International Labor Organization (ILO) survey, approximately 71 percent of school-age children were enrolled in school. The enrollment rate was 96 percent at the elementary level and less than 60 percent at the secondary level. The majority of students reached fifth grade. Schools expelled pregnant students, who then had to wait a year before applying for readmission.

Several government-run clinics provided health care to children, with boys and girls having equal access to such care.

Child abuse was not considered to be widespread or a societal problem. However, in the Toledo area reportedly had high incidents of child labor and of sexual abuse of children occurred (see section 6.d.). The Family Violence Unit recorded 171 cases of domestic violence against children. Sexual abuse of minors, including incest, was a problem. The Family Violence Unit recorded 138 cases of sexual abuse against mi-

nors. The law allows authorities to remove a child from an abusive home environment and requires parents to maintain and support children until the age of 18. In August the government adopted a new law increasing the legally recognized minimum age for marriage with parental consent from 14 to 16 years of age. Many parents sold their daughters as child brides to men, often a friend of the family (see section 5, Trafficking).

On April 24, authorities arrested the parents of an 11-year-old female rape victim and a 13-year-old female rape victim for allegedly kidnapping the suspected male rapists. The father of one of the rape victims spent 2 days in police custody and 20 days in jail. On August 4, authorities charged the 2 girls with kidnapping, denied bail, and remanded them for 8 days to a youth hostel. On August 11, the DPP office withdrew kidnapping charges against the 11-year-old and substituted charges of abetment to kidnapping, but retained the charge of kidnapping against the 13-year-old.

Child labor was a problem (see section 6.d.).

The Family Services Division in the Ministry of Human Development, Women and Children, and Civil Society was the government office devoted to children's issues. The division coordinated programs for children who were victims of domestic violence, advocated remedies in specific cases before the family court, conducted public education campaigns, investigated cases of trafficking in children (see section 5, Trafficking), and worked with NGOs and UN Children's Fund to promote children's welfare.

Trafficking in Persons.—The law prohibits trafficking in persons, which is punishable by fines of up to \$5 thousand (\$10 thousand BLZ) and imprisonment of up to 5 years for trafficking and 8 years for rape. There were reports that persons were trafficked within and to the country, mainly from neighboring countries. The Trafficking in Persons Committee, under the Ministry of Home Affairs, is the official government agency responsible for combating trafficking.

During the year the government's efforts to identify trafficking victims were weakened by inadequate investigation and inspection by authorities. There were no reliable estimates of the extent of trafficking. There were reports that women were trafficked to the country from neighboring countries primarily for prostitution and nude dancing. Victims generally lived in squalid conditions in the bars where they worked. Some bar owners reportedly confiscated victims' passports. Agents of the bars and brothels lured women and girls to the country, and they or taxi drivers along the border delivered women to brothels.

There were reports of persons trafficked for labor purposes, including instances of Chinese immigrants being forced to work in local Chinese-owned sweatshops and of children working in activities such as shining shoes or selling newspapers at kiosks. Members of the East Indian community also trafficked persons from India as bonded laborers, holding their passports and paying less than minimum wage.

The government's National Committee for Families and Children reported instances of minors engaged in prostitution with older male clientele, in some cases of their own volition, in others arranged by their family. The girls were typically of high-school age, but some as young as 12 were reported, and came from economically disadvantaged families in which their mothers also were victims of the same abuse. The girls often provided sexual favors to older men in exchange for clothing, jewelry, or school fees and books. In a limited number of cases, the government was not able to prosecute individuals for unlawful carnal knowledge because the victims or their families were reluctant to press charges. In August the government changed the marriage law to prevent men from escaping prosecution for rape by marrying girls under 16 without parental consent.

On February 4, police in Orange Walk arrested and charged a Salvadoran national and mother of a 12-year-old girl with abetment to commit carnal knowledge, and also charged adult male Ernesto Magana with unlawful carnal knowledge, adult male Mario Zepeda with abetment of carnal knowledge, and charged adult female Katalina Jimenez with permitting the defilement of a child on her premises. A preliminary inquiry into the matter was set for January 2006.

On December 9, police arrested and charged Petronila Urratio with procurement pursuant to an investigation into reports that for over a year she had forced her 12-year-old daughter to have paid sexual intercourse with clients.

On December 23, Cecilia Garcia and her common-law husband Walter Swazo were tried and convicted of trafficking Garcia's 12-year-old sister for the purpose of sexual exploitation to Salvadoran national Santos Martinez, who took the minor to El Salvador. Garcia and Swazo each received sentences of one year in prison. At year's end authorities sought the extradition of Martinez, who remained in Salvadoran police custody.

The law also provides for limited victims' assistance, although, in practice there were insufficient government resources to provide meaningful aid to victims. Non-citizen victims willing to assist in prosecuting traffickers are legally eligible for residency status.

The government's National Committee for Families and Children provided nationwide training programs mostly for front line police and immigration officials, and the Ministry of Home Affairs increased the number of border checkpoints to control trafficking in and out of the country.

Persons with Disabilities.—Although the law does not expressly prohibit discrimination against persons with physical and mental disabilities, the constitution provides for the protection of all citizens from any type of discrimination. The law does not provide for accessibility for persons with disabilities. In practice persons with disabilities had access to regular classrooms and some limited special programs, but there were no separate schools for persons with disabilities. During the year there were no reports of discrimination against persons with disabilities in employment, education, or access to health care, and other state services. The government-operated Committee for those with Disabilities is tasked with enforcing protection and public education.

In November the committee and the Ministry of Education sponsored a nationwide tour of schools for Karen Gaffney, an international advocate for persons with Down's syndrome. Private companies and NGOs, such as the Belize Association of and for Persons with Disabilities and the Belize Center for the Visually Impaired, provided services to persons with disabilities. The Ministry of Education maintained an educational unit offering limited special education programs with strict entry requirements, within the regular school system.

Indigenous People.—The country is a pluralistic society comprising several ethnic minorities and indigenous Mayan groups. Among the country's indigenous population, the Mopan and Kekchi historically were characterized under the general term Maya, although self-proclaimed leaders more recently asserted that they should be identified as the Masenal ("common people").

There were no further developments and none were expected regarding the November 2004 rebuke by Inter-American Commission on Human Rights' of the government for not acting on the commission's 2003 recommendations that the government demarcate land occupied communally by indigenous communities before taking any further actions on the disputed lands.

Other Societal Abuses and Discrimination.—Ethnic tension, particularly resentment of recently arrived Central American and Asian immigrants, continued to be a problem. There was some societal discrimination against persons with HIV/AIDS, and the government worked to combat it through the public education efforts of the National Committee on HIV/AIDS under the Ministry of Human Development and through the Pan-American Social Marketing Organization, which received foreign government assistance.

Section 6. Worker Rights

a. The Right of Association.—By law and in practice, workers generally were free to establish and join trade unions. Eight independent unions, whose members constituted approximately 11 percent of the labor force, represented a cross-section of workers, including most civil service employees. The Ministry of Labor recognizes a union after it has registered with the registrar's office. The National Trade Union Congress of Belize only recognized unions that held free, annual elections of officers. Both law and precedent effectively protect unions against dissolution or suspension by administrative authority.

The law prohibits antiunion discrimination. The government did not undertake any formal steps to address 2004 recommendations of the International Confederation of Free Trade Unions concerning employer antiunion discrimination in the banana production sector and export processing zones. The law does not require reinstatement of employees fired for union organizing activities, but an aggrieved employee can seek such redress from the courts. In practice effective redress for workers dismissed for union organizing was extremely difficult to obtain. Although workers are able to file complaints with the labor department, it was difficult for workers filing complaints to prove that a termination was due to union activity.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining, and unions practiced it freely. Although employers and unions can set wages in free negotiations, more commonly, employers simply established them. The labor commissioner or his representative has the authority to act as a mediator in deadlocked collective bargaining negotiations between labor and management, of-

fering nonbinding counsel to both sides. If either union or management chooses not to accept the commissioner's decision, both may request to a legal hearing.

Unions may organize freely, but the law does not require employers to recognize a union as a bargaining agent if no union within that sector covers more than 50 percent of the workers.

The law permits unions to strike and does not require notice before a strike. However, this right is not extended to public sector workers in areas designated as "essential services," which is broadly defined and includes postal, sanitary, health, and other services, as well as services in which petroleum products are sold. The law also empowers the government to refer a dispute to compulsory arbitration in order to prohibit or terminate a strike.

There are no special laws or exemptions from the regular labor laws in the country's 4 general and 26 special export-processing zones (EPZs). There were no unions in the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5). In its annual report, the ILO Committee of Experts requested that the government repeal sections of the Trade Unions Act that provide for compulsory labor as a punishment for violations of labor discipline or for participation in strikes by persons employed by the government or any public service.

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor was a problem particularly in family-related commercial activities. The law prohibits the employment of children under age 12 and the employment of children between the ages of 12 and 14 before the end of school hours on official school days. While the law does not expressly provide for a maximum number of weekly hours of work that can be performed by persons under 18 years of age, it generally limits work hours for all persons to 45 hours per week. The law expressly prohibits children from working overtime. By law, children are permitted to work on family farms and in family-run businesses. The minimum age for employment involving hazardous machinery is 17-years-old. There were ambiguities in the legal definition of child labor in relation to light work, hazardous work, and artistic performance. Inspectors from the departments of labor and education are responsible for enforcing these regulations, but there were no updated reports on whether child labor laws were well enforced during the year.

In 2003 the Central Statistical Office issued the findings of an ILO study that estimated that 6 percent of children between the ages of 5 and 17 were working, half of them in hazardous work. The study did not include the sizeable population of undocumented minors, many of whom were not in school. The Department of Labor coordinated with police and social services authorities to provide health and other services to undocumented foreign children who worked.

Children in rural areas worked on family plots and businesses after school, on weekends, and during vacations, and were involved in the citrus, banana, and sugar industries as field workers. Children in urban areas shined shoes, sold food, crafts, and other small items, and worked in markets. Adolescent girls, some of whom were trafficked within the country and to and from neighboring countries, worked as domestic servants, and some worked in commercial sexual activities (see section 5). There were no government-sponsored child labor prevention programs.

e. Acceptable Conditions of Work.—The national minimum wage was \$1.12 (\$2.25 BLZ) for all workers. The minimum wage law did not cover workers paid on a piecework basis. The Ministry of Labor was charged with enforcing the minimum wage, which generally was respected in practice. The national minimum wage did not provide a decent standard of living for a worker and family.

The law sets the workweek at no more than 6 days or 45 hours and requires premium payment for overtime work. The exploitation of undocumented Central American workers, particularly young service workers and agricultural workers, continued to be a problem.

Several different health and safety regulations covered numerous industries, and the Ministry of Labor set and enforced these regulations to varying degrees. The government committed its limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints were registered. Workers had the legal right in law and practice to leave a dangerous workplace situation without jeopardy to continued employment.

BOLIVIA

Bolivia is a constitutional, multiparty democracy with a population of 8.5 million. On June 9, following weeks of social protests, congress accepted the resignation of President Carlos Mesa Gisbert, who assumed the presidency in October 2003, following the resignation of the then President Gonzalo Sanchez de Lozada. The presidency passed through the constitutional line of succession (both the presidents of the Senate and the Chamber of Deputies declined the position) to Supreme Court President Eduardo Rodriguez Veltze, who became a transitional president. On December 18, in a generally free and fair process, citizens elected Evo Morales Aima as president by the largest margin in recent history. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in some areas. Civil unrest during the first half of the year resulted in some reported human rights violations. President Mesa's policy of not using force to maintain order resulted in fewer cases of violations committed by state actors, but the vacuum of power created other social and economic problems and ultimately led to his resignation and the transfer of power to President Rodriguez in June. The following human rights problems were reported:

- abuses by security forces, including killings, use of excessive force, extortion, and improper arrests
- mistreatment of military conscripts
- harsh prison conditions characterized by violence
- arbitrary arrest and detention, police brutality, and prolonged detention
- corruption, inefficiency, and political manipulation of the judiciary
- pervasive domestic violence and discrimination against women, abuse of children, and trafficking in persons
- discrimination against and abuse of indigenous people and blacks
- child labor and brutal working conditions in the mining industry

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Although the government or its agents did not commit any politically motivated killings, one protester was killed and dozens were injured during violent demonstrations in La Paz and Chuquisaca (see section 2.b.). Additionally, security forces killed two persons in unrelated events.

On January 28, naval officer Ruben Dario Rojas shot and killed Eusebio Negrete Rojas Pinto, a 12-year-old boy in Riberalta who he believed was a cattle thief. Rojas' family alleged excessive force due to the existence of 13 entry-wounds and further alleged that he did not receive prompt medical treatment. On July 1, authorities sentenced Dario to three years in prison.

On June 9, during the civil unrest that led to President Mesa's resignation, unknown actors killed miner Carlos Coro Mayta outside the city of Sucre. The government indemnified the family for his death, and the investigation was ongoing at year's end.

On August 4, army officer Luis Fernando Pereara Ramos, who was under the influence of alcohol, shot and killed military conscript Fredy Moises Kanqui. The case was pending in a military court at year's end, and Pereara was being held in preventative detention.

There were no developments in the investigations of the June 2004 killings of officer Saul Coronado and two peasants, Hernan Masay and Eddy Argmon, during confrontations between security forces and civilians in the town of San Pablo.

There were no new developments in the investigations of the September and October 2004 confrontations between coca growers (*cocaleros*) and security forces inside the Isiboro Secure nature reserve, which resulted in the deaths of *cocalero* Juan Colque and Genaro Canaviri.

There were no developments and none were expected in the investigation of the December 2004 killing of Medrin Colque Mollo, presumably by police, during a confrontation between more than 100 squatters and security forces.

There were no significant developments in the public ministry investigations into the February 2003 civil unrest that left 33 people dead and some 200 injured.

With respect to the government's case against former President Gonzalo Sanchez de Lozada and his cabinet for the approximately 59 deaths and more than 400 per-

sons injured in the October 2003 civil unrest, the government did not conduct a full and fair investigation, but absolved civilians of all liability for their role in the unrest. The government notified the majority of the defendants of the charges against them and began taking evidence in the case in August, including the depositions of military officials.

On August 25, police officer Santiago Calderon Romero was killed during a land confrontation with the Landless Movement, a nongovernmental organization (NGO) in Santa Cruz.

On September 1, on the outskirts of El Alto in Viacha, Gumercindo Mamani, Damaso Condori, and Dionicio Flores were killed in a dispute between two communities over land ownership. These cases were under investigation at year's end.

In March 2004 disgruntled miner Eustaquio Picachuri, who entered congress with dynamite strapped to his body, blew himself up, killing policemen Marvel Flores and Rene Amurrio and injuring 11 bystanders. The government determined that Picachuri did not have any accomplices, so the authorities did not open a criminal investigation.

There were no significant developments and none were expected in the investigations into the numerous boobytrap and sniping incidents in the Chapare in 2003 that killed or injured security personnel eradicating illegal coca plants and the shooting death of coca grower Willy Hinojosa.

There were several deaths due to violence in prisons during the year (see section 1.c.).

In the case of the February 2004 killing of prosecutor Monica von Borries in Santa Cruz, authorities granted conditional liberty on bond to Spanish citizen Francisco Javier Villanueva in November. At least one other suspect, Brazilian citizen Ricardo Borba remained in jail. Italian Marco Marino Diodato escaped from custody and remained at large, while Brazilian suspect Sandro de Carvalho escaped from a Santa Cruz prison in September (see section 1.c.).

In the case of the June 2004 lynching of Ayo Ayo Mayor Benjamin Altamirano, authorities made several arrests and sentenced two persons associated with the killing. On December 2, police arrested the principal suspect and alleged mastermind of the crime, Cecilio Huanca, in Santa Cruz. Government officials, previously driven from the town, regained control of Ayo Ayo.

The government's delay in completing effective investigations and identifying and punishing those responsible for either civilian or security force deaths resulted in a perception of impunity. The congressional human rights committee, the ombudsman's office, the Vice Ministry of Justice and its Directorate of Human Rights, and NGOs continued to press the government to expedite action in the cases.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and while the government generally respected these prohibitions, there were a number of allegations of beatings and abuse by members of the security forces. The Human Rights Ombudsman released a report on December 30 which stated that of all government institutions, police were the most frequent violators of human rights.

The Chimore Center for Justice and Human Rights (CCJHR), which was converted into an Integrated Justice Center, received 16 complaints from citizens in the Chapare during the year that security forces either had abused them or stolen their property. Cases were not formally filed with the public ministry but instead were referred for action to the police office of professional responsibility.

There also were credible allegations that military commissioned officers and non-commissioned officers beat and otherwise mistreated military conscripts.

On December 21, La Paz police officers Rene de Rio Rosales, Mario Vaca, and Edgar Choque reportedly arrested and beat Alvaro Guzman, Director of Human Rights for the Vice-Ministry of Justice, and refused to allow him access to an attorney. An investigation was pending at year's end.

The public ministry investigation continued into allegations that Santa Cruz police tortured Spanish citizen Francisco Javier Villanueva in April 2004 in connection with the February 2004 car bombing of State Prosecutor Monica Von Borries (see section 1.a.).

No significant progress was made in the 2003 case involving two coca growers injured during a protest at Cruce Vueladero or in the 2003 beating cases of Gabina Contreras and her husband Crecencio Espinosa near Santa Rosa, allegedly by army soldiers. The latter case remained under investigation at year's end.

Indigenous communities in areas with little or no central government presence imposed punishments that reportedly included the death penalty for members who violated traditional laws or rules, although the constitution prohibits the death pen-

alty. Vigilante justice was a regular occurrence in the mostly indigenous city of El Alto, where images of would-be thieves were hung routinely in effigy near stores and markets. On July 12, crowds attempted to burn professor William Villca in Cochabamba when neighbors of the town confused him with a thief.

Prison and Detention Center Conditions.—Prison conditions were harsh. Prisons were overcrowded and in poor condition. Overpopulated jails included: San Pedro in La Paz by 397 percent, Mocovi by 345 percent, and the women's jail in La Paz by 300 percent. A total of 52 persons escaped from prisons during the year, with 17 recaptured. On September 22, 27 prisoners escaped from Palmasola in Santa Cruz. Guards killed 2 prisoners during the escape; 14 remained at large. With the exception of the maximum-security prison of Chonchocoro in El Alto, government authorities effectively controlled only the outer security perimeter of each prison. Inside prison walls, prisoners usually maintained control, and criminal gangs operated from their cells without hindrance.

Violence between prisoners and, in some cases, the involvement of prison officials in violence against prisoners were problems. In October more than 200 prisoners in the Cantumarca prison in Potosi rioted after guards beat prisoner Ever Guaman. Corruption was a problem among low-ranking and poorly paid guards and prison wardens. The number of persons held in detention centers, intended to hold persons prior to the completion of their trials and sentencing, significantly decreased due to the new Code of Criminal Procedure (CCP) but was still a problem due to judiciary strikes and a general increase in crime.

According to the director general of the Penal System in the Ministry of Government, as of October, there were 7,310 prisoners (949 women and 6,361 men) in facilities designed to hold 4,700 prisoners.

A prisoner's wealth may determine cell size, visiting privileges, day-pass eligibility, and place or length of confinement. Fees reportedly were paid to prior cell occupants or to prisoners who controlled cellblocks. Although the law permits children up to 6 years old to live with an incarcerated parent, children as old as 12 lived with their parents in prisons. There were approximately 730 children living with a parent in prison, as an alternative to being left homeless. The standard prison diet was insufficient, and prisoners who could afford to do so supplemented the standard prison diet by buying food. The law provides that prisoners have access to medical assistance, but there was no adequate health care within the prisons, and it was difficult for prisoners to get permission for outside medical treatment. Of the country's 14 jails, 5 did not have doctors or provide medical assistance. Several illnesses were registered in the jails such as tuberculosis and HIV. The government was unaware of the number of ill prisoners. However, affluent prisoners could obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. Inmates who could pay had access to drugs and alcohol.

Several deaths due to violence in prisons occurred during the year, including the death of a child molester/rapist who was killed by his fellow inmates.

In August authorities charged and sentenced prisoners William Perez and Elito Limon to 30 years and 5 years, respectively, for their roles in the death of prisoner Mauricio "Chichuriru" Suarez in 2003.

There are separate prisons for women, except for Morros Blancos prison in Tarija, where both men and women were incarcerated. Conditions for female inmates were similar to those for men; however, overcrowding at the San Sebastian women's prison in Cochabamba was worse than in most prisons for men.

The 706 convicted juvenile (16 to 21 years old) prisoners were not segregated from adult prisoners in jails, and adult inmates sometimes abused them. Rehabilitation programs for juveniles or other prisoners were scarce to nonexistent. Pretrial detainees were held with convicted prisoners.

The government permitted prison visits by independent human rights observers, judges, and media representatives, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The National Police have primary responsibility for internal security, but military forces may be called upon for help in critical situations, which occurred during the year. The National Police disciplined its officers when appropriate, issuing 641 administrative sanctions during the year. Several senior police officers were fired and charged for off-duty crimes, and a number were dismissed for corruption. In April authorities charged three high-ranking police officers with assault but later released the officers on technical grounds. Prosecutors generally were reluctant to prosecute security officials for alleged offenses committed while on duty, in part because they rely on the Judicial Technical Police to investigate their own officers.

Arrest and Detention.—Arrests were carried out openly, but there were credible reports of arbitrary arrest and detention. The CCP requires an arrest warrant, and the police must inform the prosecutor of an arrest within 8 hours. The law requires that a detainee be presented before a judge within 24 hours. The CCP provides that within this 24-hour period a judge must determine the appropriateness of continued pretrial detention or release on bail and must order the detainee's release if the prosecutor fails to show sufficient grounds for arrest. Credible reports indicated that in some cases detainees were held for more than 24 hours without court approval.

Many prisoners still awaited trial; the most recent government statistics revealed that approximately 5,404 were awaiting sentencing, but the courts provided release on bail for some prisoners. Judges have the authority to order preventive detention for suspects under arrest deemed to be a flight risk. If a suspect is not detained, a judge may order significant restrictions on the suspect's travel.

Prisoners were allowed access to a lawyer, but approximately 70 percent could not afford legal counsel, and public defenders were overburdened (see section 1.e.).

Approximately 800 police officers and prosecutors were trained in the new CCP and in safeguarding human rights during criminal investigations.

There were no reports of political detainees.

Denial of justice through prolonged detention remained a problem. Although the CCP provides that a detainee cannot be held for longer than 18 months awaiting trial and sentencing, this has not been respected in practice (see section 1.e.). If the process is not completed in 18 months, the detainee may request release by a judge; however, judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures kept some persons incarcerated for more than 18 months before trial.

Children from 11 to 16 years of age may be detained indefinitely in children's centers for known or suspected offenses, or for their protection, on the orders of a social worker. There is no judicial review of such orders (see section 5).

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, corruption and inefficiency in the judicial system remained major problems. Poor pay and working conditions made judges and prosecutors susceptible to bribes.

The judicial system has three levels of courts: trial court, superior court, and the Supreme Court. The Supreme Court hears appeals in general, while the constitutional tribunal has original and appellate jurisdiction on constitutional matters.

The CCP provides for a system of transparent oral trials in criminal cases; requires that no pretrial detention exceed 18 months; provides for a maximum period of detention of 24 months in cases in which a sentence is being appealed; and mandates a 3-year maximum duration for a trial.

The law provides that the prosecutor is in charge of the investigative stage of a case. The prosecutor instructs the police regarding witness statements and evidence necessary to prosecute. Counternarcotics prosecutors lead the investigation of narcotics cases. The prosecutor pursues misdemeanor cases (with possible sentences of less than four years) before a judge of instruction and felony cases (with possible sentences of more than four years) before sentencing courts, both of which features a five-member panel that includes three citizen members and two professional judges. During the year the Forensic Medical Institute opened, although the attorney general's office did not have the proper chemicals to begin conducting investigations.

Superior court review is restricted to a review of the application of the law. Supreme Court review is restricted to cases involving exceptional circumstances. During the superior court and Supreme Court reviews, the courts may confirm, reduce, increase, or annul sentences or provide alternatives not contemplated by lower courts.

Trial Procedures.—Defendants have constitutional rights to a presumption of innocence, to a speedy trial, to remain silent, to have an attorney, to confront witnesses, to present evidence on their own behalf, to due process, and to an appeal. In practice the rights to an attorney and to a speedy trial were not protected systematically, although the CCP facilitated more efficient investigations, transparent oral trials, and credible verdicts.

The National Public Defense Service was established to provide indigent defendants with a defense attorney at public expense. However, continued budget shortages led to reducing the service's staff to 54 public defenders, 9 legal assistants, and 9 district directors. There was a particular shortage of public defenders in rural areas.

The CCP also recognizes the conflict resolution (community justice) traditions of indigenous communities, provided that the resolution does not conflict with the rights and guarantees established under the constitution.

The military justice system generally was susceptible to senior-level influence and tended to avoid rulings that would embarrass the military. When a military member is accused of a crime related to his military service, the commander of the affected unit assigns an officer to conduct an inquiry and prepare a report. The results are forwarded to a judicial advisor, usually at the division level, who then recommends a finding of either innocence or guilt. For major infractions, the case is forwarded to a military court. Authorities recognized conflicts over military and civilian jurisdiction in certain cases involving human rights. A 2004 constitutional court decision provides that military personnel should be tried in civilian courts for human rights violations. During the year the armed forces organized seven human rights seminars in different cities and worked to reform its military code and military prison system.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and while the government generally respected these prohibitions, there were credible allegations of security forces making unauthorized entries into private homes in the Chapare and the Yungas. Residents in the coca growing areas generally were reluctant to file and pursue formal complaints against security forces. Those who were engaged in alternative development activities were also reluctant to pursue formal complaints against coca growers because of fear of reprisals by the coca syndicates.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

Privately owned newspapers frequently adopted antigovernment positions. However, there were frequent allegations of bias and corruption in the press, including reports that political candidates had to pay bribes for favorable elections coverage and to avoid negative press. Some independent media practiced self-censorship or did not report on certain stories for fear of being accused of either favoring, or waging a “dirty war” against political figures. Others complained that journalists’ unions protected journalists and editors with political biases who unduly influenced reporting. In September the Journalists’ Association’s Honor Court found major daily *El Diario* in violation of ethics rules.

State-owned and private radio and television stations generally operated freely. In contrast with 2004, there were no reported instances of journalists being threatened, injured, or held hostage by private individuals or groups critical of their reports.

On April 20, a military officer physically assaulted journalist Jose Luis Conde while he was recording the events of the 114th anniversary of the military school. The investigation was pending at year’s end.

Unlike in 2004, there were no reports that police forcibly expelled reporters covering the news.

The law provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from one month to two years. Insults directed against the president, vice president, or a minister, increase the sentence by one-half. Journalists accused of violating the constitution or citizens’ rights are referred to the 40-person Press Tribunal, an independent body authorized to evaluate journalists’ practices. Although cases rarely were brought before the tribunal, during the year the tribunal heard a case involving a political candidate’s defamation claim against a magazine.

The government prohibited the importation of pornographic books, magazines, and artwork.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of peaceful assembly, and the authorities generally respected this right in practice. While the law requires a permit for most demonstrations, security forces rarely enforced the law, and most protesters demonstrated without obtaining permits, frequently blockading major thoroughfares and highways.

On June 9, at least one person, miner Carlos Coro Mayta, died in Chuquisaca, and dozens of others were injured during episodes of social unrest (see section 1.a.). Some of the injuries were attributed to tear gas canisters, rubber bullets, and live ammunition used by security forces against protesters. Investigations into these in-

cidents remained pending at year's end. Demonstrators, particularly miners, often set off small sticks of dynamite during marches, resulting in injuries, usually to the person detonating the device.

Freedom of Association.—The law provides for freedom of association, and the authorities generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. Roman Catholicism predominates, and the constitution recognizes it as the official religion. The Roman Catholic Church received support from the government (approximately 300 priests received small stipends) and exercised a limited degree of political influence.

Non-Catholic religious organizations, including missionary groups, must register with the Ministry of Foreign Affairs and Worship and receive authorization for legal religious representation. The ministry is not allowed to deny registration based on an organization's articles of faith, but the legal process can be time-consuming and expensive, leading some groups to forgo registration and operate informally without certain tax and customs benefits. Most registered religious groups were identified as Protestant or evangelical.

Societal Abuses and Discrimination.—There was a small Jewish community. While no overt acts of societal violence were reported against the community, during the year one Jewish group continued to voice its concern over "skin head" groups who disseminated anti-Semitic hate mail on the Internet.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. However, protesters blocked major highways at various times at different locations throughout the country. Blockades in La Paz, Chuquisaca, and Cochabamba by coca growers, the Movement Toward Socialism Party, miners, and social groups caused an estimated \$100 million (794 million bolivianos) of economic loss. Although the government did not revoke citizenship for political or other reasons, an estimated 792,700 citizens lacked basic identity documents, which prevented them from obtaining international travel documents and other government services.

The law prohibits the forced exile of citizens, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 United Nations Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government has a system to determine those in need of refugee protection or asylum. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers; however, the government had not yet adjudicated the cases of any of the 22 persons who applied for refugee status in 2004, in part because of bureaucratic delays. Five persons applied for refugee status during the year, and the government provided refugee protection in three of those cases. While the law does not mention temporary protection, the government provided similar protection to approximately 30 individuals who did not qualify as refugees under the 1951 convention and the 1967 protocol by granting them tourist or work visas.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. However, approximately 400 thousand citizens of voting age lacked the identity documents necessary to vote. Political parties and citizens groups ranging from far left to moderate right functioned openly. Elections for national offices and municipal governments are scheduled to be held every five years.

Elections and Political Participation.—In national elections held on December 18, citizens elected Evo Morales Aima as president in a process generally considered free and fair, despite allegations of minor irregularities in the master voting list. Voter turnout reached a record-breaking high of 84.5 percent.

A law enacted by congress in 2004 to permit small citizen and indigenous groups that met certain criteria to participate in politics as political parties significantly impacted voter participation in the December 18 election.

Although the law requires that every third candidate appearing on a political party's slate be female, the actual number of women holding public office was 24 percent. Female politicians reported that political parties frequently adhered to the quota in submitting their candidate lists, but subsequently pressured female candidates to resign their candidacy prior to elections.

In addition every other candidate on municipal election ballots, beginning with the second candidate, must be a woman, a requirement that increased female representation to approximately 30 percent of municipal council positions. There were 28 women among the 157 deputies and senators (prior to the December 18 elections) and 3 women in President Rodriguez's 18-member cabinet. There was 1 indigenous member of the cabinet, and the number of indigenous members of the congress was estimated at 17 percent, a figure difficult to confirm because designation as indigenous is self-declared.

Government Corruption and Transparency.—In cases involving allegations of corruption against public officials, congress must give its approval before prosecutors can institute legal proceedings. During the year congress approved seven such cases of corruption against former governors Luis Alberto Valle, Rolando Arostegui, Gustavo Aguirre and former ministers Tonchi Marinkovic, Fernando Kieffer, Edgar Millares, and Carlos Iturralde. There also were nepotism scandals in congress and corruption cases involving senior police officials, most of whom were fired. NGOs involved in land takeovers and disputes also were suspected of illegal gain.

There was no specific information available on laws providing access to government information or whether the government provided such access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, NGOs and the ombudsman complained that occasionally government security forces and ministries refused to cooperate with their investigations. Security forces continued to provide credible evidence that radical groups used some NGOs as a cover for subversive activities. For example, in 2003 police in El Alto arrested Colombian National Liberation Army suspect Francisco "Pacho" Cortes, who, although posing as a human rights worker, possessed narcotics, seditious material, weapons, and bomb-making equipment. On January 10, Cortes obtained provisional liberty with the help of NGOs that paid for his bail. At year's end he remained under a modified house arrest.

The human rights ombudsman is a position with a 5-year term established in the constitution. Congress chooses the ombudsman, who is charged with providing oversight for the defense, promotion, and spread of human rights, specifically to defend citizens against abuses by the government. The ombudsman operated without party influence and with adequate resources from the government and foreign NGOs. Indigenous persons filed most of the complaints received by the ombudsman.

There were no new developments in the congressional human rights committee investigation of alleged human rights abuses committed in 2003, including those in the Chapare and those related to the social unrest.

The CCJHR continued to be active in the Chapare region and moved to expand its role as an "Integrated Justice Center" to include conflict resolution. New offices were opened in the city of El Alto and the Yungas. These offices reported their findings to the Vice Ministry of Justice in the Ministry of the Presidency, disseminated human rights information, accepted complaints of abuses committed, kept records, and referred complaints to the public ministry. The CCJHR also housed a medical forensic expert and an investigative staff to review complaints. The majority of cases received during the year related to interfamilial violence against women and children.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination based on race, gender, language, or social status, there was significant discrimination against women, indigenous people, and the small black minority.

Women.—Violence against women was a pervasive and underreported problem. According to the Center for the Information and Development of the Woman (CIDEM), 70 percent of women were abused physically or psychologically. CIDEM noted that the statistics "did not reflect the full magnitude of the problem of violence against women" and that "a great number of women" did not report the aggression they faced on a daily basis.

The family laws prohibiting mental, physical, and sexual violence provided for fines or up to four days in jail, unless the case becomes a public crime subject to the Penal Code; however, these laws were enforced irregularly. The government took few meaningful or concrete steps to combat domestic violence.

Rape also was a serious but underreported problem. The law defines two types of criminal cases. In private criminal matters, the victim brings the case against the defendant; in public criminal matters, a state prosecutor files the criminal charges. The CCP makes rape a public crime. The law, as modified during the year, criminalizes statutory rape, with penalties of 10 to 20 years for the rape of a child under the age of 14. In cases involving consensual sex with an adolescent of 14 to 18 years of age, the penalty is 2 to 6 years' imprisonment. Forcible rape of an adult is punished by sentences ranging from 4 to 10 years' imprisonment. Sexual crimes against minors automatically are considered public crimes in which the state presses charges.

Prostitution is legal for adults age 18 and older, and there were reports of trafficking in women for the purposes of prostitution and forced labor (see section 5, Trafficking).

The CCP considers sexual harassment a civil crime. There were no statistics on the incidence of sexual harassment, but it generally was acknowledged to be widespread.

Legal services offices devoted to family and women's rights operated throughout the country. The Maternal and Infant Health Insurance Program provided health services to women of reproductive age and to children under the age of five.

Women were entitled to the same legal rights as men; however, many women were unaware of their legal rights, although the government sponsored seminars to educate them. The Vice Ministry of Women in the Ministry of Sustainable Development protects their legal rights. Women generally did not enjoy a social status equal to that of men. Traditional prejudices and social conditions remained obstacles to advancement. In rural areas, for instance, traditional practices restricting land inheritance for women remained a problem. The minimum wage law treats men and women equally; however, women generally earned less than men did for equal work. Women sometimes complained that employers were reluctant to hire them because of the additional costs (mainly maternal) in a woman's benefits package. The gender gap in hiring appeared widest in the higher education brackets. Most women in urban areas worked in the informal economy and the services and trade sectors, including domestic service and micro-business, whereas, in rural areas, the vast majority of economically active women worked in agriculture. Young girls often left school early to work at home or in the informal economy.

Leading women's rights groups included the Campesinas of Bolivia Bartolina Sisa, which focuses on rural indigenous women, and CIDEM.

Children.—The government's commitment to children's rights and welfare was insufficient to improve conditions appreciably. There are seven Defender of Children and Adolescents offices to protect children's rights and interests.

Public schooling was provided up to age 17 or grade 8; the law requires all children to complete at least 5 years of primary school; primary education was free and universal. Enforcement of the education law was lax, particularly in rural areas, where more than half of the primary schools offered only three of eight grades. An estimated 50 percent of children completed primary school, and an estimated 26 percent graduated from high school. There were no significant gender differences in access to basic education, although girls continued to drop out at a higher rate than boys, particularly in the rural areas.

Medical care is free up to age five, and there was no apparent difference in such access based on gender. Pilot centers offered subsidized health care to children over the age of five, although clinics often were not available in rural areas. Unlike in previous years, there were no reports that preference was given to boys regarding medical expenditures in rural areas. Many children, particularly from rural areas, lacked birth certificates and the identity documents necessary to secure social benefits and protection. The government, with help from foreign governments and NGOs, made some progress providing these documents free of charge.

Physical and psychological abuse in the home was a serious problem. Corporal punishment and verbal abuse were common in schools. Children from 11 to 16 years of age may be detained indefinitely in children's centers for suspected offenses or for their own protection on the orders of a social worker. The UN Children's Fund (UNICEF) estimated that approximately 13 thousand children lived in institutions where their basic rights were not respected. There also were many children living on the streets of major cities.

Child prostitution was a problem, particularly in urban areas and in the Chapare region. There were reports of children trafficked for forced labor to neighboring countries (see section 5, Trafficking).

Child labor was a serious problem (see section 6.d.).

Several NGOs had active programs to combat child prostitution. The government's plan to combat child labor included a public information campaign against child prostitution and raids on brothels.

Trafficking in Persons.—Although the law prohibits trafficking in persons, there were credible reports that persons were trafficked to, from, or within the country.

The law specifically criminalizes trafficking in persons for the purpose of prostitution and provides for terms of imprisonment beginning at 4 years and ranging up to 12 years when the victim is less than 14 years of age. The government investigated 44 cases of trafficking in persons; while there were some arrests, there were no convictions.

The Ministry of Government, including the national police and the immigration service, the ministries of foreign affairs, labor, and sustainable development, as well as prefectures and municipalities, are legally responsible for handling some aspect of antitrafficking efforts. In August a presidential decree gave the Ministry of the Presidency, via an inter-institutional committee, responsibility for trafficking matters.

The country is a source for men, women, and children trafficked for forced labor and sexual exploitation to Argentina, Chile, Brazil, Spain, and the United States; however, there were no reliable estimates on the extent of the trafficking. Faced with extreme poverty, many citizens were economic migrants, and some were victimized by traffickers as they moved from rural areas to cities and then abroad. Women and children, particularly from indigenous ethnic groups in the altiplano region, were at greater risk of being trafficked. Children were trafficked within the country to work in prostitution, mines, domestic servitude, and agriculture, particularly harvesting sugar cane and Brazil nuts. Weak controls along its extensive five borders made the country an easy transit point for illegal migrants, some of whom may have been trafficked. Commercial sexual exploitation of children also remained a problem.

While there were reports that some adolescents were sold into forced labor, it appeared that most victims initially were willing economic migrants who were duped or later coerced into accepting jobs that turned out to be forced labor.

Some government officials reportedly took bribes to facilitate smuggling and the illegal movement of people; however, the government did not condone or facilitate trafficking and removed at least two high-level immigration officials on suspicion of corruption. It was not known whether any of those dismissed were accused of involvement with trafficking. The government also took measures, such as instituting a system of checks and balances at official border crossings and airports, to reduce corruption among judicial officials responsible for authorizing unaccompanied travel abroad of those under 18 years of age.

During the year the government established technical judicial police units specializing in trafficking in persons in La Paz, Cochabamba, and Santa Cruz and assigned investigators and prosecutors to handle trafficking-related cases. The government also promoted educational measures to address trafficking, and the Ministry of Sustainable Development and NGOs conducted informational campaigns on the rights of children and women. The government, in conjunction with UNICEF, provided free birth and identity documents to thousands of undocumented citizens to reduce their vulnerability to being trafficked. In April the municipality of La Paz opened a shelter for abused and exploited children that also provided services for young trafficking victims.

The Defenders of Children offices in municipalities, sometimes in cooperation with NGOs, managed scattered assistance programs for victims.

The NGOs *Terre des Hommes*, International Organization of Migration, and Save the Children conducted public awareness campaigns on trafficking of children. In November and December the government, with the support of the International Labor Organization (ILO) and the Organization of American States, conducted a radio and television public awareness campaign. The government also established and widely publicized a "123 hotline" for reporting trafficking in children.

Persons with Disabilities.—There was no official discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. However, societal discrimination kept many persons with disabilities at home from an early age, limiting their integration into society. The Law on Disabilities requires wheelchair access to all public and private buildings, duty

free import of orthopedic devices, a 50 percent reduction in public transportation fares, and expanded teaching of sign language and Braille.

The electoral law requires accommodation for blind voters; however, in general, there were no special services or infrastructure to accommodate persons with disabilities. A 2003 presidential decree requiring that 4 percent of the government's new hires be persons with disabilities had not been strictly enforced by year's end.

The National Committee for Incapacitated Persons was responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—There was societal discrimination against the small black minority, who generally remained at the low end of the socioeconomic scale and faced severe disadvantages in health, life expectancy, education, income, literacy, and employment. The majority of the estimated 25 thousand blacks lived in the Yungas region of the Department of La Paz.

Indigenous People.—In the 2001 census, approximately 62 percent of the population over 15 years of age identified themselves as indigenous, primarily from the Quechua and Aymara groups. Indigenous protesters were major protagonists in the events leading up to the 2003 resignation of President Sanchez de Lozada and the June resignation of President Mesa. The Agrarian Reform Law provides for indigenous communities to have legal title to their communal lands and for individual farmers to have title to the land they work. Indigenous people protested the government's failure to provide them with title to all of their claimed territories; they also objected to outside exploitation of their resources. Indigenous peasants illegally occupied several private properties belonging mostly to former government officials, often with the backing of the Landless Movement.

Indigenous groups used the Popular Participation Law to form municipalities that offered them greater opportunities for self-determination. Several political parties and citizens' groups and a number of NGOs were active in promoting the rights of indigenous peoples, although progress was minimal. The CCP recognized the conflict resolution traditions of indigenous communities (see section 1.e.).

Indigenous people continued to be underrepresented in government and politics, and indigenous groups bore a disproportionate share of poverty and unemployment. In addition government educational and health services were not available to many indigenous groups living in remote areas (see sections 2.d., 3, and 4).

Section 6. Worker Rights

a. The Right of Association.—While the law allows workers have to form and join trade unions, in practice, this right was limited due to inefficient labor courts and inadequate government regulation. Approximately 25 percent of the workers in the formal economy, which employed approximately 30 percent of all workers, belonged to unions.

Workers may form a union in any private company of 20 or more employees; however, an estimated 70 percent of workers were employed in micro or small enterprises with fewer than 20 employees. Public sector workers also have the right to form a union. The law requires prior government authorization to establish a union and confirm its elected leadership, permits only one union per enterprise, and allows the government to dissolve unions by administrative fiat.

Complaints of antiunion discrimination are administered by the National Labor Court, which can take a year or more to rule due to a significant backlog of cases. The court ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders stated that problems often were moot by the time the court ruled.

b. The Right to Organize and Bargain Collectively.—The law provides workers with the right to organize and bargain collectively; however, collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the government, was limited. Most collective bargaining agreements were restricted to wages.

The law provides most workers with the right to strike but first requires unions to revert to government mediation; the law requires the same of employers before they initiate a lockout.

Public services, including banks and public markets, are prohibited from striking; however, workers in the public sector (including teachers, transportation workers, and health care workers) frequently did strike. Public sector employees have not been penalized for strike activities in recent years. Solidarity strikes are illegal, but the government neither prosecuted nor imposed penalties in such cases.

There were numerous strikes organized by a variety of different sectors during the year. Massive strikes and blockades, which included labor movement participation, contributed to the resignation of President Mesa in June.

There are no special laws or exemptions from regular labor laws in the seven special duty-free zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers continued, as did some alleged individual cases of household workers effectively held captive by their employers (see sections 5 and 6.d.).

The ILO estimated that more than seven thousand Guaranis lived in a type of indentured servitude in extremely remote parts of Chuquisaca. The families worked land owned by landlords in exchange for housing and food, but were not paid the minimum wage. As a result, they incurred large debts to their landlords, and were not permitted to leave the property without satisfying their debt. These families lived in very poor conditions, without water, electricity, medical care or schools. The human rights ombudsman conducted an investigation into this situation, and on November 21, released a formal proclamation urging regional and national governments to address the problem.

The ILO reported that between 26 thousand and 30 thousand persons, mostly of indigenous origin, were victims of forced labor, harvesting Brazil nuts in Beni Department. The work was seasonal, lasting approximately three months per year. During that time landlords sold basic foodstuffs to workers at inflated prices; workers subsequently incurred large debts, and were not permitted to leave the property until the debt was satisfied. Similar conditions existed in the sugar harvest industry in the Santa Cruz Department. Forced labor also occurred on individual farms in remote regions (principally in the Chaco region). The government worked with the ILO to address these issues.

Trafficking of women and children was a problem (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor was a serious problem. The law prohibits all work for payment by children under the age of 14; however, in practice, the Ministry of Labor generally did not enforce child labor laws, including those pertaining to the minimum age and maximum hours for child workers, school completion requirements, and health and safety conditions for children in the workplace. The law prohibits a range of dangerous, immoral, and unhealthy work for minors under the age of 18. Labor law permits apprenticeship for 12- to 14-year-olds under various formal but poorly enforced restrictions, which have been criticized by the ILO and were considered by some to be tantamount to bondage (see section 6.c.).

The Ministry of Labor is responsible for enforcing child labor provisions but did not enforce them throughout the country.

According to government and UNICEF statistics, some 800 thousand children and adolescents between the ages of 7 and 19 were engaged in some type of work, which represented an estimated 32 percent of this age group. Although the law prohibits persons under 18 years of age from work in the sugarcane fields, approximately 10 thousand rural migrant children worked in this activity. Urban children sold goods, shined shoes, and assisted transport operators. Rural children often worked with parents from an early age, generally in subsistence agriculture. Children generally were not employed in factories or formal businesses but, when employed, often worked the same hours as adults. Children also worked in mines and other dangerous occupations in the informal sector. Narcotics traffickers used children to transport drugs. Child prostitution remained a problem (see section 5).

The traditional practice of *criadito* service persisted in some parts of the country. *Criaditos* are indigenous children of both sexes, usually 10- to 12-year-olds, whom their parents indenture to middle- and upper-class families to perform household work in exchange for education, clothing, room, and board. Such work is illegal, and there were no controls over the benefits to, or treatment of, such children.

The government devoted minimal resources to investigating child labor cases, but NGOs and international organizations, such as UNICEF, supplemented the government's efforts.

The government continued its efforts to eliminate child labor in its worst forms, in particular, working with NGOs to discourage the use of child labor in the mining and sugar sectors by participating in internationally funded programs to provide educational alternatives to children who otherwise would work in mines or in sugarcane fields.

e. Acceptable Conditions of Work.—The government established the minimum wage for the public and private sectors by supreme decree following traditional negotiation with the Central Bolivian Workers Union. The national minimum wage was \$55 (436 bolivianos) per month and did not provide a decent standard of living for a worker and family. Most formal sector workers earned more, although many

informal sector workers earned less. While the minimum wage fell below prevailing wages in most jobs, certain benefit calculations were pegged to it. The minimum wage did not cover the large number of workers in the informal sector.

Labor laws, which were not effectively enforced, establish a maximum workweek of 48 hours, limit women to a workday 1 hour shorter than that of men, prohibit women from working at night, mandate rest periods, and require premium pay for work above a standard workweek.

The Ministry of Labor's Bureau of Occupational Safety has responsibility for protection of workers' health and safety, but relevant standards were enforced poorly. While the government did not maintain official statistics, there were reports that workers died due to unsafe conditions, particularly in the mining and construction sectors. A national tripartite committee of business, labor, and government representatives was responsible for monitoring and improving occupational safety and health standards. The Ministry of Labor maintained a hot line for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in the mining sector particularly were poor. Although the State Mining Corporation has an office responsible for safety, many mines were dangerous and unhealthy. In some mines operated as cooperatives, miners earned less than \$2.75 (21 bolivianos) per 12-hour day. Miners in such cooperatives worked in dangerous, unhealthy conditions with no scheduled rest for long periods. The law does not specify when workers may remove themselves from dangerous situations.

BRAZIL

Brazil is a constitutional federal republic with a population of approximately 186 million. In 2002 voters elected President Luiz Inacio Lula da Silva ("Lula") of the Workers' Party (PT) to a 4-year term in a free and fair election. While civilian authorities generally maintained effective control of the security forces, members of the security forces committed numerous serious human rights abuses, primarily at the state level.

The federal government generally respected the human rights of its citizens; however, there continued to be numerous, serious abuses, and the record of several state governments was poor. The following human rights problems were reported:

- unlawful killings and killings due to excessive force committed by state police forces (both civil and military)
- police involvement in killings for hire and death squad executions of suspected criminals, persons considered undesirable, indigenous people, and labor activists
- police torture and beating of suspects and detainees
- failure to act in numerous human rights violations by state authorities, which perpetuated a climate of impunity
- harsh and often life-threatening prison conditions
- frequent torture and beatings of prison inmates, including in juvenile detention centers
- failure to ensure the right to a fair and speedy trial
- investigations of human rights abuses by police officials normally limited to internal police reviews and seldom subject to independent review
- overloaded military police tribunals that rarely investigated cases thoroughly, seldom convicted abusers, and allowed impunity for many military and civil police officers
- violence and discrimination against women
- child abuse and prostitution
- trafficking in persons, particularly women and children for the purpose of prostitution and slavery
- failure to protect indigenous people from outsiders who encroached on their lands or to provide them with adequate health care and other basic services in many areas
- societal discrimination and occasional violence against Afro-Brazilians and homosexuals
- persistent intimidation and killings of land reform activists and rural labor union organizers and their agents
- widespread forced and slave labor with virtual impunity for the perpetrators

- widespread child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit politically motivated killings, but unlawful killings by state police (military and civil) were widespread.

There continued to be a high rate of police killings. Government officials (including the president) acknowledged the continued severity of the problem of unlawful killings by law enforcement officials.

Amnesty International (AI) reported that police killed approximately two thousand persons a year in Rio de Janeiro and Sao Paulo states. The Sao Paulo State Secretariat for Public Security reported that Sao Paulo police (civil and military) killed 264 civilians in the first 9 months of the year compared with 322 civilians killed during the first 8 months of 2004; off-duty policemen were responsible for 23 of the killings. On December 4, in Niteroi, Rio de Janeiro State, military police killed five people in the “Morro do Estado” shantytown; an investigation continued at year’s end.

Rio de Janeiro’s Security Secretariat reported that state police killed 594 persons during the first 8 months of the year, compared with 983 killings for all of 2004. However, reports from the Center for Studies of Security and Censorship at Candido Mendes University estimated that approximately three thousand people were killed by police in Rio de Janeiro State during the year.

In many cases police officers employed indiscriminate lethal force during apprehensions, killing civilians despite the lack of any danger to themselves. In some of these cases, the civilian’s death followed severe harassment and even torture by law enforcement officials (see section 1.c.).

On July 22, civil police killed five persons ages 14 to 22 during an antidrug operation in the Morro do Samba area in Diadema, Sao Paulo City. While a police internal affairs investigation continued, the five suspects remained on duty.

In July 2004 military policeman Marcos Aurelio Epifanio shot and killed university student Fernando Santos Maia da Conceicao in Brasilia. The policeman stated that he had been informed about a gas station robbery and that the suspects reportedly drove a car identical to Maia da Conceicao’s. On February 10, the grand jury’s prosecutor charged Epifanio with murder, and the trial remained pending at year’s end.

Trials remained pending for military policeman Fabio Trevisoli charged with involuntary manslaughter and for three military policemen charged with prevarication and failure to administer first aid in the May 2004 Sao Paulo City supermarket killing of Raimunda Furtado, who was mistaken for a robber. Trevisoli was dismissed from his position.

Unlike the preceding year, there were no reports of extrajudicial killings by police in juvenile detention centers.

The use of torture by police sometimes led to the death of the victims (see section 1.c.). On September 31, union leader Jair Antonio da Costa died after being strangled with a police stick during a demonstration in Sapiranga, Rio Grande do Sul. Major Eduardo Pitam, the operation’s commander, and five others were fired; six additional officers were free and awaited trial at year’s end.

Some members of the police continued to exploit an overall climate of violence to administer “rough” justice to those whom they consider socially undesirable.

There were numerous allegations of police killings and violence in Sao Paulo City, particularly in the Diadema and Sapopemba area. On July 4, Tereza Rodrigues Faria and her sons Eduardo and Fabio were shot and killed in front of their house in the Jardim Portinari neighborhood in Diadema. In late August authorities charged military police third sergeant Ricardo Silva dos Santos with three counts of homicide for killing Francisca and her two sons and three counts of attempted homicide for shooting and injuring Francisca’s husband and two other children. Five other police officers were accused of involvement in or failure to stop the crime. The case was pending at year’s end.

On November 7, the Ministry of Justice rejected formal charges brought by the public prosecutor against five military police and one private security guard in the August 2004 killing of seven homeless persons in Sao Paulo. According to the Sao Paulo ombudsman, the judge reasoned that there was no strong evidence linking the accused to the crime. The accused have retained their positions.

Three military police were convicted in the 2004 street killing of an Afro-Brazilian dentist in Sao Paulo. Two were convicted of homicide and sentenced to 17½ years

in prison; the third officer received a sentence of 7½ years' imprisonment for illegal possession of firearms.

No further information was available regarding the police internal affairs investigation into the involvement of 13 military police arrested for the 2003 killing of William Douglas Santos and Fabricio Francisco da Conceicao in Campinas, Sao Paulo State.

Numerous credible reports indicated the continuing involvement of state police officials in revenge killings and the intimidation and killing of witnesses involved in testifying against police officials (see section 1.e.).

Death squads with links to law enforcement officials carried out many killings, in some cases with police participation. The National Human Rights Secretary stated that death squads operated in 15 states. Credible, locally-based human rights groups reported the existence of organized death squads linked to police forces that targeted suspected criminals and persons considered "undesirable"—such as street children—in almost all states and the Federal District.

On March 31, a military police death squad invaded two suburbs in the Baixada Fluminense neighborhood near Rio de Janeiro City, and killed 29 persons in drive-by shootings to retaliate against the "Dagger in the Flesh" operation, a government initiative to eliminate extrajudicial killings and corrupt police practices. Charges against two officers arrested on April 3 were dismissed; the investigation of the remaining nine continued at year's end.

On July 16, 6 military police, 2 former policemen, and 3 lawyers were among 32 persons arrested in Curitiba, Parana State. Those arrested were accused of forming a death squad that killed 30 persons, including police commander Pedro Plocharski, in January.

On July 30, four youths were killed in separate municipalities of the greater Rio de Janeiro City of Baixada Fluminense. Two of the victims, 9-year-old Leonardo Andre de Tulio and his 12-year-old brother Claudio Andre de Tulio, were found dead in Duque de Caxias. The burned bodies of a third brother, 19-year-old Carlos Alberto Ferreira de Paula, and a family acquaintance, 16-year-old Davi dos Santos Matias, were later discovered in Xerem. Compelling evidence suggested that a Baixada Fluminense military police death squad committed the killings. Investigators were also looking into a possible link between these killings and the killing of Matias' sister, allegedly by local drug traffickers, two weeks earlier. The cases remained under investigation at year's end.

There was no information on the civil and military police internal affairs investigations initiated in May 2004 into cases of death squad activity in Guarulhos and Riberao Preto, both large cities in Sao Paulo State.

The 2003 military police internal affairs investigation into the existence of a police death squad that allegedly targeted and killed troublemaking youths in Guarulhos, Sao Paulo State, continued. The case involving charges against 2 military policemen and 2 private security guards, indictments of 11 other policemen, and investigations of an additional 27 for killing 3 adolescents in 2003 was closed due to a lack of evidence.

No additional information was available regarding the Sao Paulo State civil police internal affairs office investigation of former civil policemen Thiago Ferreira da Silva Moreira and Ricardo Jose Guimaraes for the 2003 death of Thiago Xavier Stefani and their participation in a Ribeirao Preto death squad linked to 30 other deaths. Moreira, who was in prison for a separate crime, was released in May 2004, his trial remains pending. Guimaraes, who was convicted for killing one person, escaped from the state police detention center in June and remained at large. There was no further information regarding the internal affairs investigation of four other civil policemen in the case.

There were new developments in the 2003 killings in Bahia and Paraiba states of two witnesses, purported to have information about death squads, who were killed shortly after meeting with the visiting UN special rapporteur on summary executions. In the 2003 killing of Flavio Manoel da Silva in Paraiba State, authorities arrested prison agent Lucival de Morais Lima and private security agent Claudio Roberto Borges. In December 2004 a grand jury declared Lima innocent due to a lack of evidence. Borges' trial was postponed, and no developments have been reported. Two military police officers who were also accused of participating in the death squad that killed Bispo were arrested, but no further developments were reported in their cases.

There were numerous killings of indigenous people, mostly related to land disputes (see section 5), and of rural activists and labor union organizers (see section 6.a.). AI and other credible sources indicated that these killings often occurred either with the participation, knowledge, or acquiescence of state law enforcement officials. On April 5, federal police arrested former military police lieutenant colonel

Wasdir Coppetti Neves and five other military police officers for creating a paramilitary group to target landless rural workers in Parana State. On June 9, legal proceedings began in federal court against 19 persons suspected of being involved with the paramilitary group.

In December the Pastoral Land Commission (CPT) reported that 37 rural workers were killed from January to November. From January to August, 27 rural workers were victims of attempted killings, 114 received death threats, 2 were reportedly tortured, 52 were physically assaulted, 114 were imprisoned, and 80 were wounded in 794 land conflicts involving 615,560 people.

The Ombudsman's Office of the Ministry of Agrarian Development reported 66 rural killings (12 as a direct result of land conflict, 34 not directly caused by land conflict, and 20 still under investigation) between January 1 and October 30.

On February 12, local gunmen shot and killed Catholic nun Dorothy Mae Stang in Anapu, Para State. Stang had received a number of death threats in recent years and met with federal authorities to complain about recent threats against her and her colleagues during the week of her death. Stang worked with landless peasants and supported efforts of the government's National Institute for Colonization and Agrarian Reform to place the landless on unused and underutilized land. After an investigation, the state civil police recommended indictments against five suspects, who were arrested and awaited trial. In June the government announced that the suspects would be tried at the state, not federal, level despite requests from Stang's family and the prosecutor general that the case be federalized due to possible corruption in Para State's judicial process. Three suspects appealed to the Para State Court of Justice and won't be tried until the appeal is considered. Two others were convicted and sentenced on December 9: Rayfran das Neves Sales was sentenced to 27 years and Clodoaldo Carlos Batista to 17 years in prison.

On February 23, 61-year-old environmentalist Dionisio Julio Ribeiro Junior was killed where he worked at the Rio de Janeiro State "Tingua" biological reserve, near Rio de Janeiro City. Tingua Reserve and Brazilian Environmental Agency (IBAMA) employees received death threats previously, but local authorities took no action. In March federal police arrested Leonardo de Carvalho Marques after receiving an anonymous tip on a police hot line. Leonardo confessed to the crime but did not convince public security authorities that he had acted alone. Some allegedly corrupt IBAMA employees were also under investigation in the case.

On July 25, Catholic priest Paulo Henrique Keler Machado was shot to death in Nova Iguaçu, near Rio de Janeiro City. While local police detectives believed that the killing was the result of an armed robbery, church officials believed that Machado was killed due to his support of the investigation of the 29 people killed in the Baixada Fluminense massacre. The case remained under investigation at year's end.

On March 4, authorities arrested 11 military police in Natal, Rio Grande do Norte State, on suspicion of involvement in at least 26 killings while participating in an extermination group over a 3-year period. Eleven other military policemen were detained on suspicion of collusion.

The investigation continued in the 2004 killing of a Landless Rural Workers' Movement (MST) activist in Parana State.

In September two police officers were convicted and sentenced to 25 years in prison for the 2003 murder in Vitoria, Espirito Santo State, of a judge who had been investigating organized crime and human rights abuses among police officials.

In September state courts received testimony in the 2003 killings of four MST members in Foz do Jordao, Parana State. The accused were awaiting trial at year's end. There were no known developments in the 2003 killing of a rural workers' association leader in Tamandare, Pernambuco State.

In June a judge in a lower-instance court in Campinas, Sao Paulo State, summoned witnesses in the case of the antiskidnapping police investigator accused of the 2002 killing of Jorge Jose Martins, and the trial remained pending at year's end.

There were reliable reports of killings of government officials by those who had vested interests in the officials' professional activities. Six of the 10 suspects in the January 2004 killing of 4 labor ministry inspectors in Unai, Minas Gerais State, remained in jail pending trial. The two men suspected of ordering the killing were not arrested; one of them was elected mayor of Unai. The inspectors were investigating slave labor practices at local farms.

There were killings by vigilante groups who invaded prisons. On July 18, a mob invaded a jail in Igarape-Açu, Para State, and beat to death a 17-year-old accused of killing a local merchant; 50 military police from a neighboring municipality were dispatched to Igarape-Açu to restore peace and to protect two others suspected of killings. On July 23, a mob shot, lynched, and nearly quartered a man suspected of attempting to rape a woman in Belo Horizonte, Minas Gerais. On August 15, a

50-person mob invaded a jail in Gandu, Bahia State, and beat to death Carlos Eduardo do Nascimento and Lucas Medeiros de Souza who were being held for suspected killings; only one of the mob members had been detained by year's end.

AI reported that criminal gangs and drug factions controlled some *favelas* (shantytowns), particularly in the city of Rio de Janeiro, through intimidation and violence. Lynching was common, especially against those accused of rape or other crimes that go unpunished in these communities due to the absence of police agents.

b. Disappearance.—While there were no reports of politically motivated disappearances, uniformed and civil police involvement in extortion and kidnappings for ransom was widespread. On August 8, Rio de Janeiro State authorities arrested civil policeman Adamo Ricardo Fernandes for kidnapping a doctor from Resende, Rio de Janeiro. The doctor was kept in the policeman's house in the neighboring city of Volta Redonda. Investigations into four other alleged kidnappings involving Fernandes continued at year's end. In December drug traffickers from the shantytown Parada de Lucas wearing police uniforms, invaded the shantytown Vigario Geral, kidnapped, tortured, and killed eight young people (15 to 24 years of age). One resident told police that police provided support for the drug traffickers. The case was under investigation at year's end.

No further information was available regarding the November 2004 case in which police arrested military policeman Anderson Goncalves Viana and his brother-in-law as suspects in the robbery of a building during which the occupants were held hostage.

There were no known developments regarding the case of two Sao Paulo civil policemen from the antikidnapping division and a military policeman who were charged with kidnapping for ransom two narcotics traffickers.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits torture and provides severe legal penalties for its use, torture by police and prison guards remained a serious and widespread problem.

From January through September, the Sao Paulo State Police Ombudsman's Office received 17 complaints of torture. The nongovernmental organization (NGO) Christian Association for the Abolition of Torture estimated that it had received complaints of 650 cases of torture in the Sao Paulo State prison system from the end of 2002 until mid-year, approximately 60 of which were received from January to September. The NGO Christian Association for the Abolition of Torture estimated that it received approximately 25 complaints of torture in the Sao Paulo prison system during the year. Common torture methods included open-handed blows, beatings with wood or other objects, and collective punishment.

The Center for the Defense of Human Rights in Matto Grosso do Sul State received 36 reports of torture during the first 6 months of the year; one case resulted in a conviction. The center stated that many victims did not report incidents of torture for fear of reprisal.

On June 14, authorities sentenced two civil police officers to 8 years and 5 years 4 months in prison, respectively, for beating and torturing a 15-year-old boy in Xinguara, Para State, in 1999. The convicted officers remained free pending their appeal, despite fears that those involved in obtaining the conviction of the two officers were at risk of reprisals and intimidation.

During the year the National Movement for Human Rights together with the Chamber of Deputies' Human Rights Commission reported that police and prison guards were responsible for nearly 80 percent of the reported cases of torture and that most victims were young, poor, Afro-Brazilian men from less-developed regions; it reported an average of 150 cases per month. Most reports came from remote cities in the interior where low-ranking police were in charge.

The state public prosecutor for children and youth (responsible for defending the rights of incarcerated youth) was involved in 26 ongoing investigations into torture and mistreatment claims in Sao Paulo's juvenile detention system (FEBEM). According to the public prosecutor, there were 19 ongoing criminal cases against 220 former or current FEBEM employees who were accused of torture.

On January 11, FEBEM Vila Maria employees reportedly beat and tortured inmates. On January 13, 16 FEBEM employees were arrested and provisionally imprisoned, while 7 evaded arrest; 55 were indicted on charges of torture, failure to prevent torture, and related charges. Sao Paulo State authorities continued their investigation at year's end.

In June Federal District Attorney General Rogerio Schiatti presented an analysis of 711 complaints of torture received by the National Torture SOS hot line between 2001 and 2003. The analysis classified 62 of the complaints as torture, of which 45 percent occurred in prisons, 33 percent in jails, and 22 percent in public areas. In 73 percent of the cases, torture had been used as a "punitive or preventive" meas-

ure. In the Federal District, beating was the method of torture in 72 percent of the cases, but psychological intimidation, food deprivation, water torture, and electrical shocks also occurred.

Federal, state, and military police often enjoyed impunity in cases of torture, as in other cases of abuse (see section 1.e.).

The 2004 case of five individuals who alleged that military police officers in Sao Bernardo do Campo, Sao Paulo, regularly tortured them over a period of 112 days remained pending at year's end. According to the NGO Christian Association for the Abolition of Torture, the four policemen charged in the case were released, pending the trial's outcome.

No new information was available regarding the criminal investigation into the public prosecutor's charges that in July 2004 FEBEM's Raposo Tavares unit 27 tortured youthful inmates by burning them with fireworks. The unit director was dismissed in November.

In July Delegado Marco Tulio Fadel, accused of detaining and torturing adults and adolescents in 2003 at the Igarape police station in Belo Horizonte, Minas Gerais State, was sentenced to 16 years' imprisonment.

In some cases, sexual orientation or gender identity might have played a role in cases of torture and cruel treatment (see section 5). NGOs confirmed that police committed abuse and extortion directed against transvestite prostitutes in the cities of Rio de Janeiro, Belo Horizonte, and Salvador.

While an internal civil investigation absolved five civil Anti-Kidnapping Unit policemen on charges of torturing three individuals in the Sapopemba neighborhood of Sao Paulo City in 2003; a trial on those charges against four policemen and a police clerk remained pending at year's end.

Prison and Detention Center Conditions.—Prison conditions throughout the country often ranged from poor to extremely harsh and life threatening. Prison riots were frequent and often violent. Discipline was difficult to maintain under such conditions, and prison officials often resorted to brutal treatment, including torture. Harsh or dangerous working conditions, official negligence, poor sanitary conditions, abuse and mistreatment by guards, and a lack of medical care led to a number of deaths in prisons (see section 1.a.). In November two brothers were killed during a rebellion at Rubens Quintella prison in Maceio State, one by decapitation. The riot was sparked by prisoner complaints of penitentiary overcrowding and the slow pace of judicial processes. The poor working conditions and low pay for prison guards also encouraged widespread corruption. Poor record keeping resulted in the detention of many inmates beyond their sentences.

Severe overcrowding in prisons and police detention centers was prevalent and was worst in states with the largest prison populations, such as Rio de Janeiro and Sao Paulo. According to the Ministry of Justice, at year's end there were 342,388 prisoners in a system designed to hold 211,255. Construction of new penitentiaries continued but was inadequate to alleviate overcrowding. According to the administrative director of the Sao Paulo State Secretary Administration, 45 percent of the state's prisons were overcrowded. The Pinheiros Women's Facility in Sao Paulo City held 1,261 detainees in a building designed to hold 512. Overcrowding was also endemic in prisons in the Northeast.

Prisoners were subjected to unhealthy medical and sanitary conditions. Scabies and tuberculosis, HIV/AIDS, and hepatitis, were widespread in Sao Paulo State prisons. According to local NGOs, infectious diseases, such as AIDS and tuberculosis, reached endemic levels among prisoners. The HIV/AIDS infection rate among prisoners was between 20 and 30 percent; infected prisoners were eligible to receive antiretroviral cocktails. The Ministry of Health reported the frequent incidence of skin infections, respiratory problems, HIV/AIDS, sexually transmitted diseases, and tuberculosis among the general prison population of Sao Paulo State. The Catholic Church's Ministry for the Incarcerated in Sao Paulo reported that in several of the city's police jails, most detainees suffered from skin or respiratory illnesses, and prison administration officials reported that many prisoners who transferred into the Sao Paulo penitentiary system became infected in police jails. Denial of first aid and other medical care sometimes was used as a form of punishment.

Overcrowding remained a problem in police jails and penitentiaries. Sao Paulo State has closed many of its jails in recent years, and many incoming detainees were held in new "Provisional Detention Centers" (CPDs) administered by the Sao Paulo State penitentiary system rather than by the Secretariat for State Security. Women were more likely than men to remain in facilities after sentencing due to severe space shortages in women's prisons. The NGO Christian Association for the Abolition of Torture reported that the deactivation of local jails led to increased overcrowding in the prisons and CPDs, particularly in provincial cities and towns in Sao Paulo State. The NGO reported problems of overcrowding, lack of medical

care, lack of work and educational opportunities, and prisoner abuse in all types of detention facilities.

An authoritative source stated that between 6,500 and 7,000 individuals were held in pre-sentencing facilities. The Interstate Police Prison (POLINTER), a pre-sentencing facility in the Gamboa Port Zone in Rio de Janeiro City, with a design capacity of 500 held an estimated 1,500 detainees. Approximately 120 convicted detainees remained at POLINTER awaiting transfer to prison. After an unannounced visit to POLINTER on May 25, federal deputies Geraldo Moreira and Alessandro Molon prepared and presented to the State Commission on Human Rights a report, *Monster Factory*, which detailed living conditions in POLINTER.

Overcrowding, poor conditions, prisoner riots, drug abuse, and accusations of sexual abuse and torture continued to pervade Sao Paulo's FEBEM juvenile detention centers. During the year a series of simultaneous rebellions and revolts occurred in various FEBEM units in Sao Paulo City. An inmate died and several were injured during a rebellion at the Tatuape unit on January 13. Then-FEBEM president Alexandre de Moraes suspected that the rebellion was provoked by guards in retaliation for the arrest of their colleagues. On March 11, Tatuape inmates escaped from the complex. An inmate died in November following a fall from a roof during a November 22 riot at the Tatuape complex. The riot resulted in injuries to 55 persons (24 inmates and 31 employees). The Sao Paulo FEBEM system had more than six thousand inmates and accounted for more than half of the country's youth prison population. By law, detention facilities such as FEBEM must separate inmates over age 18 from minors, but not all units did so. Females and males were held in separate FEBEM units.

There were no further developments on actions taken by the police investigations department in response to the public prosecutor's 2004 investigation regarding allegations of torture at FEBEM's Tatuape unit.

There were no known developments in the pending July 2004 case in which the human rights NGO Conectas won a suit against the Tatuape facility for not complying with municipal building codes and FEBEM for a suspension of the court order to bring the unit up to municipal fire and construction codes.

In December 2004 Human Rights Watch (HRW) issued a report that documented abuses and poor health and sanitary conditions in juvenile detention centers in Rio de Janeiro State. HRW found that, in most cases, the abusers were juvenile detention center guards who rarely were punished. No juvenile detention center guard in Rio de Janeiro State has ever faced criminal charges for abusive conduct. After Socio-Educational Action (DEGASE) Director for Rio de Janeiro State Sergio Novo disputed the report's findings, HRW returned to Rio de Janeiro's juvenile detention centers and released an additional report in June. While some facilities had been repaired, HRW found that physical and mental abuse continued and that living conditions in some of the centers had worsened. The DEGASE system held 2,300 adolescents and youth in 30 different centers.

The Center for Specialized Treatment of Juveniles (CAJE) in Brasilia, Federal District, from 390,180 held 294 youths in a facility designed to hold 196 and employed 17 guards. The staff included two doctors, a nurse, a psychiatrist, 13 psychologists, 46 social assistants, and some teachers. Of the total number of detainees, 11 were females held in separate living quarters. Local critics reported understaffing, violence, and unsatisfactory treatment of inmates with mental disabilities at CAJE.

During the first 6 months of the year, more than 1,000 detainees escaped from various FEBEM units. On March 10, 307 inmates escaped from the Tatuape unit in Sao Paulo City. On May 10, FEBEM fired 11 of the 15 Tatuape directors. The former state secretary for justice and FEBEM President Alexandre de Moraes reportedly stated that directors were not capable of maintaining order. Currently 1,139 FEBEM employees are undergoing administrative review under suspicion of mal-treatment and aggression against inmates. Since 2003, 154 employees have been dismissed for these reasons.

By November FEBEM had recorded 34 prisoner rebellions for the year, compared with 28 for all of 2004. Two correction officers were taken hostage during a riot at the Tatuape detention center, the 16th rebellion to occur at Tatuape during the year. On March 10, 307 inmates escaped from the center. On May 4, 40 employees and 10 inmates were injured in a rebellion. On June 16, 11 inmates violently attacked a fellow inmate. Other units in the FEBEM system also recorded episodes of violence and disorder throughout the year. On March 11, a female employee was raped and another was sexually assaulted at the Franco da Rocha center. On May 30, 15 inmates escaped from the Vila Maria center. On November 22, a violent rebellion at FEBEM's Tatuape unit injured 31 employees and 23 inmates and killed 1 inmate.

Sao Paulo Governor Geraldo Alckmin replaced FEBEM presidents after rebellions, riots, escapes, torture accusations, and mistreatment occurred in the FEBEM system. During the first nine months of the year, court orders and administrative decisions resulted in the dismissal of a number of prison directors and managers. In September the director of FEBEM's Vila Maria complex was dismissed. The Raposo Tavares FEBEM unit director was dismissed in November after an investigation into events that occurred in July. In December the Inter-American Court of Human Rights ordered the adoption of eight protective emergency measures for inmates in Sao Paulo State FEBEM unit. Ordered measures included reducing overcrowding and punishing employees responsible for torture.

Prisons generally did not provide adequate protection against violence inflicted by other inmates. Numerous prison riots and rebellions occurred during the year, many of which left inmates injured or dead. The Sao Paulo State secretary for prison administration reported 40 criminal deaths in the state penitentiary system from January to September, compared with 29 for all of 2004.

On July 6, a 16-year-old boy was stabbed to death by three cell mates at CAJE, which a CAJE spokesman described as a "settling of accounts" following a disagreement among detainees; the victim had received repeated death threats and was transferred to a new cell the day before he was killed.

In April FEBEM intern Cleber Nogueira da Silva died after being transferred to the Tupi Paulista prison in Sao Paulo State. NGOs stated that Nogueira da Silva, who tested positive for AIDS, had not received medical care.

In January 2004, 21-year-old student Romulo Batista de Mello died after a beating while in police custody in Rio de Janeiro State. The state prosecutor's case of torture against three police officers and a case of negligence against a doctor remained under investigation at year's end.

In response to an April 2004 Inter-American Court of Human Rights order that it bring conditions at the Urso Branco prison in Rondonia State to international standards, the government submitted 11 reports to the court, which the court deemed insufficient. (The court's order followed an April 2004 riot in which 14 inmates died; Urso Branco, with a capacity of 350 prisoners, held approximately 1,300 prisoners at the time of the riot.) The court deemed the implemented measures insufficient, and the case remained under consideration.

On June 12, Celso da Silva Alves was found beaten and hanged in a cell at the POLINTER prison facility in Rio de Janeiro City. On May 21 and May 23, at the same prison, fellow inmates killed Rauvinio Alves de Oliveira and Ramiro Rodrigues Garcia Filho. Alves was held with 81 other prisoners in a cell designed for 30. Harsh conditions in POLINTER, such as severe overcrowding, contributed to the rising trend of violence.

On June 14, prisoners revolted at the Zwinglo Ferreira Maximum Security Prison in Sao Paulo State. Members of the First Command of the Capital gang overpowered guards and took 14 of them hostage, invaded protected cells, and executed 5 members of other gangs. Officials negotiated an end to the conflict the following day. There were large-scale prisoner transfers after the riot.

Investigations into the January 2004 killing of two inmates of FEBEM's Vila Maria unit who were shot and killed while trying to escape were closed due to conflicting testimony. Civil proceedings against the state by the victims' families continued at year's end.

Rio de Janeiro and Sao Paulo states provided separate prison facilities for women; elsewhere, women were held with men in some facilities. Male officers served in women's prisons, and abuse and extortion of sexual favors occurred. The administrative director for the secretary of prison administration for Sao Paulo City reported that approximately five percent of prison guards in women's prisons were men. In only two Rio de Janeiro State police districts were women held in gender-segregated, short-term jail facilities.

In March 2004 the Association of Judges for Democracy reported that in Sao Paulo State prisons, incarcerated women had fewer rights than men. Women's institutions tended to be more overcrowded than men's and received less attention from prison administrators. Approximately 65 percent of female prisoners were held in severely overcrowded conditions and did not have jobs, education, and health care as required by law. On September 7, inmates at the women's prison facility in Butana, Sao Paulo State, staged a 2-day revolt, which included hostage taking. The inmates complained of humiliating personal searches during a facility-wide inspection that preceded the rebellion. As a result, authorities removed the facility's security director.

Juveniles sometimes were held together with younger adults (ages 18 to 21). In March 400 FEBEM detainees were transferred to the adult prison facility at Tupi

Paulista in Sao Paulo State; by year's end, the detainees had returned to FEBEM-run facilities.

While authorities attempted to hold pretrial detainees separately from convicted prisoners, overcrowding often required holding convicted criminals in pretrial detention facilities.

It is government policy to permit prison visits by independent human rights observers, and state prison authorities generally followed this policy in practice. Ministry of Justice officials offered full cooperation to AI, which reported no significant problems in gaining access to state-run prison facilities. Global Justice reported that the level of access to prison facilities varied from state to state. In Sao Paulo and Rio de Janeiro states, Global Justice found it difficult to gain access. Sao Paulo State also employed committees of community leaders to monitor prison conditions. The Catholic Church's ministry for the incarcerated in Sao Paulo reported occasional difficulties in entering prisons. Sao Paulo State, like Parana and Rio Grande do Sul states, also had a prison ombudsman program. According to a former state ombudsman, the prison system was understaffed, and the investigators of complaints were often the accused perpetrators.

The government generally granted various organizations and advocacy groups unrestricted access to FEBEM facilities, although the NGO Association of Mothers and Friends of at-Risk Children and Youth (AMAR) reported difficulties gaining immediate access to facilities. For instance, on September 16, FEBEM prevented an AMAR visit to verify allegations of prisoner abuse on the grounds that Sao Paulo State internal investigations and Legal Medical Institute staff were doing so.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, police continued at times to arrest and detain persons arbitrarily. The law limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority.

Role of the Police and Security Apparatus.—The federal police force, operating under Ministry of Justice oversight, is small, primarily investigative, and plays a minor role in routine law enforcement. Most police forces fall under the control of the states, where they are divided into two distinct units: the civil police are plainclothes officers with an investigative role, while the military police are the uniformed officers charged with maintaining order. The January 2004 report of the UN special rapporteur on summary executions found that, although each state police force was monitored by its own internal affairs division, the units—subordinated to the chain of command and bound by ties of esprit de corps—often delayed applying administrative sanctions. This situation undermined efforts to address police abuses and contributed to a climate of impunity. Although the individual state governments control their respective military police forces, the constitution provides that they can be called into active military service in the event of an emergency, and they maintained some military characteristics and privileges, including a separate judicial system (see section 1.e.).

On July 22, authorities arrested 7 military policemen for sexually corrupting a 16-year-old girl at the Vila das Mercedes Military Base in Sao Paulo City and placed them under administrative arrest. The victim's 17-year-old cousin stated that she received death threats after giving testimony at the internal affairs unit of the Military Police.

The Rio de Janeiro State secretary for public security's "Operation Knife in the Flesh" aimed at investigating and arresting policemen involved in illegal activities was carried out with the military and civil police. Under the operation, the state arrested 551 police officers and discharged 103 between February and August. The federal police have conducted similar operations that resulted in the arrest of policemen, judges and other authorities involved with some kind of illegal activities.

Arrest and Detention.—With the exception of arrests of suspects caught in the act, arrests must be made with a warrant. The use of force during an arrest is prohibited unless the suspect attempts to escape or resists arrest. Suspects must be advised of their rights at the time of the arrest or before being taken into custody for interrogation.

Although warrants generally were based on sufficient evidence and issued by a judge, the NGOs National Movement for Human Rights and Global Justice reported that, at times, warrants were issued arbitrarily, depending on the judge and the region of the country. Global Justice also reported that, in Rio de Janeiro and Sao Paulo states, public and NGOs pressures caused many judges to stop issuing "collective" search and arrest warrants that permitted the police to search entire neighborhoods in poor areas.

The authorities generally respected the constitutional right to a prompt judicial determination of the legality of detention. Detainees generally were informed promptly of the charges against them. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge could extend this period. There were cases when detainees—typically poor and uneducated—were held longer than the provisional period. In August, Enilson Pereira Soares was detained six days without being informed of the charge after being caught shoplifting in the Federal District. Pereira's public defender never appeared.

In criminal cases defendants arrested in the act of committing a crime must be charged within 30 days of their arrest. Other defendants must be charged within 45 days, although this period could be extended. In practice the backlog in the courts almost always resulted in extending the period for charging defendants.

Bail was available for most crimes, and defendants facing charges on all but the most serious crimes had the right to a bail hearing.

In general prison authorities allowed detainees prompt access to a lawyer, and if indigent, to one provided by the state. Detainees were also allowed prompt access to family members.

Human rights observers stated that civil and uniformed police regularly detained persons illegally to extort money or favors. Between January and June, the Sao Paulo State ombudsman's office, received 23 complaints of extortion, typically by civil police.

There were no reports of political detainees.

In March Marcos da Silva was awarded approximately \$870 thousand (2 million reais) for having been confined 13 years in a Pernambuco State prison without having committed a crime. Da Silva was mistakenly arrested twice. In 1976 he was wrongly accused and convicted of homicide. After serving six years in prison, da Silva was exonerated and released after the actual killer was identified. In 1985 police arrested da Silva for violating parole; he then spent another 13 years in prison, without a trial, until a new prison director found out there were no real charges against him. During that time, he lost his sight due to an anti-riot bomb released by the police.

The Ministry of Justice reported that nationwide 106,798 of the 342,388 detainees in prisons and jails awaited sentencing during the year. An additional 57,588 were detained in jails. The law provides for a maximum number of days for pretrial detention, but the period was usually extended because of individual circumstances. In Pernambuco State, 9,124 of 13,651 detainees awaited sentencing.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary was underfunded, inefficient, and often subject to intimidation and political and economic influences, particularly at the state level, a situation that occasioned vigilante action (see section 1.a.). A number of senior judges remained under investigation nationwide on a variety of charges.

Although the law requires that trials be held within a set period of time from the date of the crime, the nationwide backlog in state and federal cases frequently led courts to dismiss old cases unheard. This practice reportedly encouraged corrupt judges to delay certain cases so that they eventually could be dismissed, although there were no reports of this during the year.

The judicial system ranges from courts of first instance and appeals to the Federal Supreme Court. States organize their own judicial systems within the federal system and must adhere to the basic principles of the constitution. There are specialized courts for police, military, labor, election, juvenile, and family matters.

Trial Procedures.—After an arrest, the chief judicial officer reviews the case, determines whether it should proceed, and, if so, assigns it to a state prosecutor who decides whether to issue an indictment.

The right to a fair public trial as provided by law generally was respected in practice, although in some regions—particularly in rural areas—the judiciary was less professionally capable and more subject to external influences. Similarly, when cases involved gunmen hired by landowners to kill land activists or rural union activists, local police often were less diligent in investigating, prosecutors were reluctant to initiate proceedings, and judges found reasons to delay (see section 1.a.).

The law recognizes the competence of a jury to hear cases involving capital crimes. Judges try those accused of lesser crimes.

While the law provides for the right to counsel, the Ministry of Justice estimated that 85 percent of prisoners could not afford an attorney. In such cases the court had to provide a public defender or private attorney at public expense. In his February report, UN Special Rapporteur on the Independence of Judges and Lawyers Leandro Despouy stated that, "notwithstanding the enormous amount of work" per-

formed by the federal and state public defenders, they were “unable to meet all needs.” Three states, including Sao Paulo State, do not have an office of public defender; they employ private attorneys who do not have the same guarantees of autonomy and independence as the public defenders.

Defendants have the right to confront and question witnesses. Defendants enjoy a presumption of innocence. Defendants have the right to appeal to state superior courts and to appeal state court decisions to both the Federal Supreme Court on constitutional grounds and to the Federal Superior Justice Court. At the appellate level, a large case backlog hindered the courts’ ability to ensure fair and expeditious trials. Any defendant sentenced to 20 or more years in prison has the right to an automatic retrial.

UN Special Rapporteur Despouy cited a judges’ association study that found public perceptions of the judiciary as “a mysterious black box impenetrable for the ordinary person”; delays in the system of justice and difficulties for the poor or marginalized in gaining access to the justice system caused this perception.

There continued to be numerous credible reports of state police officials’ involvement in intimidation and killing of witnesses involved in testifying against police officials (see section 1.a.).

The NGO National Movement for Human Rights noted in 2004 that courts convicted a much higher percentage of Afro-Brazilian than white defendants (see section 5).

The law mandates that special police courts exercise jurisdiction over state uniformed (military) police except those charged with “willful crimes against life,” primarily homicide. In all but the most egregious cases, police tribunals decided whether or not the killing was willful. As a result the civilian courts received very few case referrals involving police killings. The special police courts are separate from the courts-martial of the armed forces, except for the final appeals court. There were few convictions in these courts. Police were reluctant to investigate fellow officers. UN Special Rapporteur Despouy noted that “familiarity and esprit de corps may lead to impunity.”

Police officers accused of crimes less serious than willful murder are prosecuted in special military tribunals. Civilian courts have jurisdiction over police murder, but the requirement that the initial investigation be carried out by police internal affairs officers increased the potential for long-languishing investigations (see section 1.e.). The police themselves were often responsible for investigating charges of torture carried out by fellow police officers. The problem remained most pervasive at the state level. Long delays in the special military police courts allowed many cases of torture and lesser charges to expire due to statutes of limitations (see section 1.e.).

Political Prisoners.—There were no reports of political prisoners, although the MST claimed that its members jailed in connection with land disputes were political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, but there were reports that the police conducted searches without a warrant. NGOS and human rights groups, such as AI, reported frequent incidents of violent police invasions in *favelas* and poor neighborhoods. During these operations the police stopped and questioned persons and searched cars, residences, and business establishments without a warrant. Victims reported searches without warrants and abusive and violent searches of women. Wiretaps authorized by judicial authority were permitted. The inviolability of private correspondence generally was respected.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the authorities generally respected these rights in practice and did not restrict academic freedom.

Privately owned newspapers, magazines, and a growing number of online electronic publications vigorously reported and commented on government performance. Both the print and broadcast media routinely discussed controversial social and political issues and engaged in investigative reporting. Privately owned newspapers practiced isolated cases of censorship, often in areas with influential vested reasons and usually for political reasons.

Criminal and other elements, such as political party activists, subjected journalists to violence, sometimes specifically because of their professional activities. According to the NGO Journalists Without Borders, one local journalist was killed during the year. On July 1, investigative journalist Jose Cândido Amorim Pinto was ambushed and shot about 20 times in Carpina, Pernambuco state. For the past 19 years, Amorim had produced and presented an investigative program in which he

reported on local corruption cases. On June 21, Unified Workers' Socialist Party members attacked and injured a Globo network television crew during a report in front of local political party's headquarters Sao Paulo. The assailants were fired the next day.

The police investigation of the July 2004 killing of radio owner and host Jorge Lourenco in Ipanema, Alagoas State, remained pending at year's end.

Ten persons, including ex-mayor Eurico Mariano, were accused of killing radio host Samuel Roman outside his home in Coronel Sapucaia, Mato Grosso do State in 2004; Mariano was later arrested in Paraguay, while the other nine suspects evaded arrest or were killed.

In October courts convicted seven persons of the torture and killing of prominent Rio de Janeiro television journalist Tim Lopes in 2002. Six defendants were sentenced to prison terms ranging from 23 to 28 years, and one was sentenced to 9 years' imprisonment.

On June 30, Genivaldo Ferreira Nogueira, an ex-councilman of Mage, in the Baixada Fluminense region of Rio de Janeiro, was absolved of the accusation of ordering the 2001 killing of newspaper reporter Mario Coelho de Almeida Filho.

There were generally no government restrictions on the Internet. On July 4, however, the Repression and Analysis of Intolerance Crime Group, a special police force, arrested Reginaldo de Lima of Sao Paulo City, who operated a Web site devoted to Nazism, on charges of being sympathetic to Nazism. Lima, who maintained that he was a historical collector and that his website was geared towards academic research, was charged with radical prejudice, charges that carry a penalty of two to five years' imprisonment. A trial was pending at year's end.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The government required missionary groups to seek permission from the National Indian Foundation (FUNAI) for entry into indigenous lands.

Societal Abuses and Discrimination.—There were approximately 101 thousand members of the Jewish community of whom an estimated 45 thousand lived in Rio de Janeiro City, 29 thousand in Sao Paulo City; there were smaller communities in Porto Alegre, Bahia, Belem, and Manaus.

There were reports of anti-Semitic incidents during the year. In October the University of Berlin's Anti-Semitism Research Center reported that there were anti-Semitic groups in Sao Paulo and Porto Alegre. The center added that, as of October, 25 people had been denounced for some kind of anti-Semitic activity, most of them university students arrested for verbal and physical aggression against Jews. In October authorities in Curitiba, Parana State, arrested 13 members of a neo-Nazi group on charges of attempted murder. At year's end the members of the group were under preventive detention in Curitiba.

On May 8, three Jewish students were attacked in Porto Alegre, Rio Grande do Sul State; 14 persons were charged with assault or failure to prevent the attack. The case was pending at year's end.

The investigation in the October 2004 defacing of the Congregation Beth Jacob synagogue in Campinas, Sao Paulo State, was closed during the year due to a lack of evidence.

There was no further information regarding six law students at Rio de Janeiro Catholic University who were under local, state, and federal investigation for spraying anti-Semitic graffiti in a university bathroom in February 2004.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice, although there were restrictions on entry into protected indigenous areas.

The law prohibits forced exile as punishment, and it was not practiced.

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum and resettled 66 refugees during the year; refugee status was granted to approximately 35 percent of those who applied.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Military conscripts may not vote.

Elections and Political Participation.—In the 2002 national elections, PT candidate Luiz Inacio Lula da Silva won election to a 4-year-term with more than 61 percent of the vote in the second-round runoff.

Women enjoyed full political rights. There were 10 women in the 81-member Senate and 45 women in the 513-seat Chamber of Deputies. There were four women in the cabinet and one on the Supreme Court.

There were 25 Afro-Brazilians among the 594 members of Congress. There were three members of minorities in the cabinet and one on the Federal Supreme Court.

Government Corruption and Transparency.—Ethics and ethical behavior among public figures became a major issue during the year. The NGO Transparency International's index indicated a serious level of perceived corruption.

Corruption scandals involving alleged kickbacks and abuse of power at the Postal Service and the Brazilian Reinsurance Institute affected the government during the year. Dozens of government officials, including several key cabinet members, resigned or were removed; three congressional inquiry committees opened investigations; and 12 federal deputies awaited trial by the Chamber of Deputies. President Lula spoke publicly against corruption in government.

The law provides for public access to unclassified government information upon application to the Commission for Public Ethics; however, the bureaucratic process often slowed release of such information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Federal officials usually were cooperative and responsive to their views. Although federal and state officials in many cases sought the aid and cooperation of NGOs in addressing human rights problems, human rights monitors occasionally were threatened and harassed for their efforts to identify and take action against human rights abusers, particularly members of the state police forces. On September 21, AI reported death threats against Antonio Fernandez Saenz, a lawyer who provided legal assistance to socially deprived inhabitants of Sao Bernardo do Campo, Sao Paulo State. According to AI, military police threatened Saenz and his family and also broke into his office and stole documents which allegedly incriminated civil and military police in human rights violations.

While eight states had police ombudsmen (see section 1.c.), some NGOs and human rights observers questioned their independence and effectiveness. The ombudsmen's accomplishments varied dramatically, depending on such factors as funding and outside political pressure.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits and penalizes discrimination on the basis of race, gender, disability, or social status, discrimination against women, Afro-Brazilians, homosexuals, and indigenous people continued.

Women.—Although the law prohibits domestic violence, no provision specifically addresses violence against women and spousal abuse. During the year, the Senate approved legislation to address all forms of violence against women and to define penalties for the offense. Domestic violence remained both widespread and underreported; UN Special Rapporteur Despouy noted a tendency to blame the victims of these offenses. According to government officials and NGO workers, the majority of criminal complaints regarding domestic violence were suspended inconclusively. According to a survey conducted by the World Society for Victims and used by the Senate in its 2004 Report on the Condition of Women, 23 percent of women were subjected to domestic violence; in approximately 70 percent of the cases, the aggressor was the victim's husband or companion; 40 percent of the cases resulted in serious injuries, but only 2 percent of the complaints resulted in punishment of the aggressor.

The government acted to combat violence against women. Each state secretariat for public security operated women's stations (*delegacias da mulher*) to address crimes against women, but the quality of services provided varied widely, and availability was particularly limited in isolated areas. The stations provided the following services to domestic violence victims: psychological counseling, temporary shelter, hospital treatment for rape victims (including treatment for HIV and other sexually transmitted diseases), and assistance in initiating criminal cases by investigating and forwarding evidence to the courts. According to the Ministry of Justice, many of the women's stations fell far short of standards. The NGO Global Justice commented that the women's station program promoted public awareness of crimes against women but lacked strategies to protect victims after reports were filed.

The city of Rio de Janeiro, through its Favela-Bairro (Slum-Neighborhood) program, offered temporary housing to women and children who were victims of sex-related crimes.

The government continued to operate a toll-free hot line to address complaints of violence against women. The law requires health facilities to contact the police regarding cases in which a woman was harmed physically, sexually, or psychologically. On November 25, the Secretariat for Women's Affairs established a nationwide hot line to assist female victims of violence. The Institute Patricia Galvao launched the "where violence exists, everyone loses" campaign which focused on men and aimed to prevent violence against women. In addition the Secretariat for Women's Affairs launched the "Your life begins when violence ends" campaign to encourage women to report violence, denounce their aggressors, and prevent future violence. Both campaigns were broadcast on television and radio, and published in newspapers and magazines.

Rape, including spousal rape, is a crime punishable by 8 to 10 years' imprisonment; however, men who killed, sexually assaulted, or committed other crimes against women were unlikely to be brought to trial. The law allows a convicted rapist to escape punishment if he marries his victim or if the victim marries a third person and does not request or require an investigation or criminal proceedings.

While adult prostitution is legal, various associated activities, such as operating a brothel, are illegal. There are no specific laws addressing sex tourism, but the crime is punishable under other criminal types, such as pedophilia and corruption of minors. Also, the government released a "code of conduct to combat sex tourism and sexual exploitation" and conducted campaigns in the most affected areas. Authorities in the city of Rio de Janeiro launched campaigns against sex tourism and arrested several persons involved in promoting prostitution during the year. Rio de Janeiro State passed a law requiring certain businesses to display signs listing the penalties for having intercourse with a minor. Women's groups reported that prostitutes encountered discrimination when seeking free medical care. Trafficking of women for the purpose of prostitution was a serious problem (see section 5, Trafficking).

Sexual harassment is a criminal offense, punishable by up to two years in jail. The law encompasses sexual advances in the workplace or in educational institutions and between service providers or clients. In the workplace it applies only in hierarchical situations, where the harasser is of higher rank or position than the victim. Although the legislation exists and was enforced, accusations of remained rare, and the extent of the problem was not documented.

Women enjoy the same legal rights as men. A cabinet-level office, the Secretariat for Women's Affairs, oversees a special secretariat that has responsibility to ensure the legal rights of women. Although the law prohibits discrimination based on gender in employment and wages, there were significant wage disparities between men and women. Surveys during the year indicated that women on average earned between 30 to 40 percent less than men. While a federal government quota system requires that at least 20 percent of new federal government hires be women, UN Special Rapporteur Despouy noted a strikingly low level of women's representation in the judicial system, where women occupied "only five percent of the top posts in the judiciary and the Public Prosecutor's Office."

The law provides 120 days of paid maternity leave to women and 7 days to men. The law also prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates, but some employers sought sterilization certificates from female job applicants or tried to avoid hiring women of childbearing age. Violations of the law are punishable by jail terms for employers of up to 2 years, while the company may be fined 10 times the salary of its highest-paid employee.

NGOs active in combating economic discrimination included: the Feminist Center for Studies and Assistance (which focused on combating gender and racial discrimination by conducting studies and promoting advocacy activities to influence public

policy affecting women) and the Institute Patricia Galvao (which informed the public about women's rights and violence against women).

Children.—The government continued its commitment to children's rights and welfare, but millions of children suffered from the poverty afflicting their families, worked to survive, and failed to get an education.

The law provides that children age 6 and under receive free day-care and pre-school. Schooling was free and compulsory between the ages of 7 and 14 and free, but not compulsory, for adolescents between the ages of 15 and 17 who did not attend primary school. Schooling was available in all parts of the country, although not every school had space for every child who wanted to attend. In 2002 the government's statistics agency (IBGE) reported a 97 percent school enrollment rate for children ages 7 to 14, although only 11 percent of children were completing 8 years of primary school by age 15. Girls and boys attended school in comparable numbers, although a UN Children's Fund (UNICEF) report indicated that a higher percentage of boys than of girls were not in school.

While it recorded generally high vaccination and immunization rates for 1-year-olds, UNICEF noted that the child mortality rate (at 29 per 1,000 live births) remained "disproportional to national production capacity and available technology." According to HRW, girls often lacked basic medical care and had fewer opportunities than boys to receive exercise, recreation, and participate in other activities.

While the law prohibits subjecting any child or adolescent to any form of negligence or abuse, such abuse was a major problem. According to the Special Secretariat for Human Rights' Infancy and Adolescence Information System (SIPIA) report noted that over the 6-year period ending in April, most of the 361 thousand abuse complaints in 12 states were filed against parents. SIPIA reported that physical and psychological aggression was also a major problem with more than 29 thousand complaints recorded in this category. Allegations of abuse of minors and prosecution of crimes against children were not pursued adequately or aggressively. In February UN Special Rapporteur Despouy reported "a strong sense of impunity for crimes against children and young persons," mainly in the areas of death squad killings and sexual exploitation and abuse.

Between January and May, there were 258 cases of sexual abuse cases involving minors in Pernambuco State. According to the National Secretariat for Human Rights, other states recorded the following number of reports of sexual abuse during the year: Sao Paulo 1,648; Rio de Janeiro 1,497; Rio Grande do Sul 1,362; Minas Gerais 1,147.

On July 7, the Federal Police "Guardian Angel" division arrested Anderson Luis Juliano Borges Costa in Volta Redonda, Rio de Janeiro State, for pedophilia and child pornography. Costa was accused of sexually abusing more than 20 children and awaited trial at year's end.

No additional information was available regarding the Rio Grande do Sul case against 14 military policemen charged with sexually abusing minors in 2001 and 2003. The NGO National Movement for Justice and Human Rights reported that the accused policemen remained on the police force.

The legal minimum age for marriage of men and women is 18; those under the age of 16 can marry with parental consent. Underage marriage was not a significant problem.

Trafficking in children for the purpose of prostitution was a serious problem (see section 5, Trafficking).

Child labor remained a problem (see section 6.d.).

A July study by the Institute of Applied Economic Policy (IPEA) reported that more than 100 thousand children and adolescents were living in public shelters. The leading causes for displaced children were: poverty (24 percent), abandonment (19 percent), domestic violence (12 percent), and drug abuse by parents or guardians (11 percent). The IPEA report also revealed that in more than half of the cases, children were living in shelters due to the parent's belief that the child would receive better care there than at home.

In September the NGO Travessia reported that approximately 350 children lived on Sao Paulo City streets, and an additional three to four thousand children worked as street vendors.

The city of Rio de Janeiro operated 38 shelters and group homes for street children. The Sao Paulo City government runs several programs for street children, including a number of shelters for minors and the Sentinel Program, which identifies at-risk youth and provides social services, counseling, and shelter.

Trafficking in Persons.—Although the law criminalizes all forms of trafficking, persons were trafficked from, within, and, to a lesser extent, to the country.

The law establishes a penalty of up to 8 years' imprisonment for transporting persons in or out of the country for the purposes of prostitution; sentences may be increased if the victim is under 18, a senior citizen, pregnant, a person with disabilities, or a member of an indigenous group. The law requires the permission or presence of both parents for children to leave the country; it also prohibits children from leaving the country with a foreigner unless the authorities grant prior approval. Laws on trafficking for sexual exploitation were difficult to enforce, particularly in relation to domestic trafficking. The law does not specifically prohibit trafficking of men or the internal trafficking of women, although legislation was pending to criminalize all forms of trafficking.

Violators of antitrafficking laws rarely received criminal penalties because of the limitations of the statutes. Although complete data was not available, officials estimated that 50 to 100 labor trafficking defendants were prosecuted in 2003, however, many of those proceedings had not reached conclusion by year's end. According to the International Labor Organization (ILO), only 68 cases of trafficking of women for prostitution have been brought to the attention of federal authorities over the past 3 years. During the last quarter of the year, however, the country had its first three convictions that included prison sentences for persons trafficking women abroad, one in Goiania and two in Fortaleza. Prison sentences ranged from 8 to 30 years. These cases received widespread media attention.

The Federal Police in Goiania conducted numerous operations to break trafficking groups, such as the August "Operation Babylon," which resulted in the arrest of six people. On November 23, the Federal Police intercepted two trafficking victims at the international airport of Belo Horizonte, Minas Gerais, on their way to Spain. After talking to the victims, the police arrested Andrea Lucia Godoy Rosa, accused of being the head of the trafficking scheme in Belo Horizonte. In addition, on November 29, the Sao Paulo State civil police, together with the Federal Highway Police and the State Public Prosecutor's Office of Sao Paulo, launched "Operation America" to curb trafficking of workers to Mexico and the United States. The operation resulted in the arrest of 30 people involved in the scheme. None of the cases had been judged by year's end.

There was no new information regarding the case of 12 persons charged in October 2004 with participating in a sex trafficking ring in Fortaleza, Ceara State.

The Federal District court case against the former speaker of the Federal District's legislative chamber, Benicio Tavares, on charges of forced prostitution and sexual exploitation of minors remained pending at year's end.

Government authorities responsible for combating trafficking included various agencies of the Ministry of Justice (including the Federal Police), the Special Human Rights Secretariat, the Ministry of Labor and Employment, the Ministry of Tourism, and the Ministry of Social Assistance. The Federal Highway Police were responsible for checking documents and monitoring movement along highways and roads; occasionally they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect on-line recruitment by sex traffickers; antitrafficking offices in Sao Paulo, Rio de Janeiro, Ceara, and Goias states monitored domestic and international trafficking.

Police officers reported difficulty in arresting traffickers because of the need to apprehend them in the act of traveling with the victims. According to police, some women who left the country with traffickers did so willingly. Fear of reprisals also kept victims from seeking police intervention or from testifying against traffickers. As a result, few trials involving traffickers resulted in convictions.

The country assisted with investigations of trafficking in Spain, Portugal, Italy, Sweden, Mexico, and the United States.

Although comprehensive government statistics on the problem were unavailable, authorities estimated that thousands of women and adolescents were trafficked, both domestically and internationally, for commercial sexual exploitation. NGOs estimated that 75 thousand women and girls, many of them trafficked, were engaged in prostitution in neighboring South American countries, the United States, and Western Europe. Women were trafficked from all parts of the country. The government reported that trafficking routes existed in all states and the Federal District. Young women and girls were trafficked overseas for prostitution, while young men and boys were trafficked internally as slave laborers.

Internal trafficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to a lesser extent. Union leaders claimed that nearly all persons working as forced laborers had been trafficked by labor recruiters (see section 6.c.). Labor inspectors found a small number of persons from other countries trafficked to work in urban sweatshops. Labor recruiters generally recruited laborers from small municipalities in the North and Northeast and transported the recruits long distances to ranches and plantations in

remote areas in the central part of the country. Most internally trafficked slave laborers originated from Maranhao and Piaui states, while Para and Matto Grosso states received the highest number of internally trafficked slave laborers.

According to the Reference Center on Children and Adolescents (CECRIA), patterns of sexual exploitation of children corresponded to the distinct economic and social profiles of the country's regions. In the Amazon region, sexual exploitation of children took place in brothels that catered to mining settlements. In large urban centers, girls who left home to escape abuse or sexual exploitation often prostituted themselves on the streets to survive. In the cities along the northeast coast, sexual tourism exploiting children was prevalent and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruited children and trafficked them outside the country. The Ministry of Tourism found that 398 of the 1,514 tourist destinations frequented by citizens had an active sexual commercial market for children and adolescents.

Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. NGOs estimated that approximately 500 thousand children were involved in prostitution.

Officials were occasionally involved in trafficking. In July 2004 the Joint Parliamentary Investigation Commission (CPMI) denounced a number of mayors, vice-mayors, judges, city council members, and a governor who were involved in the sexual exploitation of minors and prostitution rings. A rape and pandering charge against former Goias mayor Boadyr Veloso was dismissed after he arranged the marriages of the seven girls he exploited. None of those cited in the CPMI report have been prosecuted; some cases remained under investigation and others were dismissed due to a lack of evidence.

In February Senator Joao Ribeiro was convicted and fined \$281 thousand (730 thousand reais) for forcing workers to work and live in slave-like conditions. His appeal remained pending at year's end.

CECRIA's 2003 report on trafficking in persons for commercial sexual exploitation, which drew on police, media, and other sources, identified 241 sex trafficking routes. Internationally, Spain was the destination of most identified routes (32), followed by the Netherlands (11), Venezuela (10), Italy (9), Portugal (8), and Paraguay (7). The study also named France, Switzerland, Germany, Argentina, Chile, Japan, Israel, and the United States as destinations for trafficking victims. The report identified the cities of Rio de Janeiro, Sao Paulo, Belem, Forteleza, Salvador, and Recife as exit points for persons trafficked to Europe. Rio de Janeiro and Sao Paulo were exit points for the United States, while victims destined for Argentina, Chile, and Paraguay passed through the city of Foz do Iguacu.

Domestic routes included: from Goias State to Sao Paulo and Rio de Janeiro; from rural areas in the North and Northeast to coastal cities for sexual tourism; and from small towns in the north to outposts in the Amazon region, which itinerant workers often transited. CECRIA's report also identified trafficking routes of children for sexual exploitation from the southern region of the country into Argentina and Paraguay. Domestically, trafficked agricultural workers were most often used in isolated areas of the Amazon region in the northern part of the country; many of the most serious cases occurred in the State of Para. The report also called attention to sex trafficking in areas with major development projects.

CECRIA found that the typical sex trafficking victims were darker-skinned women between 15 and 27 years of age, but researchers also noted the presence of adolescent boys as victims, some of whom worked as transvestites. Persons who fell prey to trafficking schemes typically came from low-income families and usually had not finished high school. Traffickers often lured victims with promises of lucrative work as dancers or models in Europe; beauty contest winners were cited as common targets. Girls were recruited at clubs and modeling agencies, or through the Internet, want ads, mail-order bride schemes, and maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with falsified documents.

In January the Special Secretariat for Human Rights, in conjunction with the University of Brasilia and UNICEF, published the *Inter-sectoral Matrix to Combat Sexual Exploitation of Children and Adolescents*. The matrix found that approximately 930 of 5,563 municipalities had an active sexual exploitation market. The matrix also found that most commercial sexual exploitation took place in the Northeast and in Pernambuco State and that 66 cities were involved in prostitution, trafficking, pornography, and sexual tourism. Of the 930 municipalities with an active sexual exploitation market, the matrix found that 292 were located in the Northeast, 241 in the Southwest, 161 in the South, 127 in the Central-west, and 109 in the North.

Police officials believed that some women who were recruited by trafficking organizations understood that they were to work as prostitutes, but they did not know about working conditions and their prospective earnings. In other cases women were told that they would work as nannies or domestics. Upon arrival, the victims' passports often were confiscated, and they were forced to prostitute themselves and live in virtual confinement. In addition to threatening physical violence, traffickers often used debt and isolation to control the victims.

Internal trafficking supplied forced labor primarily from urban to rural areas for agricultural work and for sex tourism. This typically occurred when employers recruited laborers from poor, rural towns and transported them to remote areas where escape was difficult. Workers then were obliged to toil in brutal conditions until they were able to repay inflated debts. Sex tourism existed throughout the country but was most apparent in coastal resort towns in the Northeast, South, and Southeast, and such major tourist destinations as Rio de Janeiro and Fortaleza, Ceara.

Trafficking in persons was linked to international networks of crime, including drugs and arms trafficking and money laundering.

There was no evidence of any institutional government complicity in the trafficking, nor was there any known evidence of individual state-level law enforcement officers engaging in, encouraging, or abetting trafficking. In July 2004 the Sexual Exploitation Parliamentary Inquiry Committee reported that police and other authorities facilitated, either actively or by omission, the trafficking of women and children near the Venezuela, Suriname, Bolivia, and the French Guyana borders.

Several government programs assisted victims of trafficking, although efforts often were inconsistent and under-funded. The Ministry of Social Assistance operated more than 400 centers to assist victims of sexual abuse and exploitation and domestic violence. NGOs provided victim assistance in job training, counseling, and other community reintegration assistance. The Office of the Comprehensive Program for the Prevention of and the Fight Against Trafficking in Persons operated seven centers to provide assistance to victims of both domestic and international trafficking. Locally based NGOs assisted trafficking victims with retraining and counseling activities.

While trafficking victims were not treated as criminals, access to support services was limited due to a lack of government support. No statistics were available concerning the number of victims in shelters. Police usually referred victims to centers for treatment and counseling.

The government maintained a witness protection program overseen by the Office of Legal Assistance for Grassroots Organizations, an NGO working in coordination with government authorities. Although the program operated in all states, lack of resources limited its effectiveness.

The National Human Rights Secretariat conducted antitrafficking information campaigns. The National Secretary for Justice continued to lead a government public awareness campaign to deter international traffickers and sensitize their potential victims to the dangers.

In February the Ministry of Tourism launched a three-phase anti-sex tourism campaign in the Northeast and Rio de Janeiro State during carnival season when sex tourism is common. During carnival, the ministry distributed pamphlets and other informational materials in coastal cities and also educated tourism industry employees, such as hotel and restaurant owners and taxi drivers, about the dangers of sex tourism. City authorities in Rio de Janeiro launched campaigns against sex tourism and arrested several persons involved in promoting prostitution during the carnival season.

Labor organizations and NGOs continued to conduct prevention campaigns. The CPT distributed pamphlets to rural workers in areas that historically served as targets for traffickers. The pamphlets warned rural workers about the methods of traffickers and offered practical advice to avoid this situation. A number of local unions instructed laborers to register with them and the police before leaving with a labor recruiter.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the federal government effectively enforced these provisions. However, state governments failed to meet legally mandated targets for educational opportunities and work placement. While the law has provisions to ensure access to buildings for persons with disabilities, states do not have programs to enforce these provisions effectively.

The National Council for the Rights of Handicapped Persons and the National Council for the Rights of the Elderly, both within the Special Secretariat for Human Rights, had primary responsibility for promoting the rights of persons with disabilities.

The Sao Paulo State labor code requires that meeting places for more than 100 persons or other facilities for 600 persons or more provide modified entrances, bathrooms, ramps, elevators, and signs for persons with disabilities. Nonetheless, persons with disabilities in Sao Paulo State had difficulty in securing necessary accommodations.

There were 237 psychiatric hospitals with more than 48 thousand patients in the country. A 2004 inspection by the Federal Council of Psychiatry and the Brazilian Bar Association of the country's psychiatric hospitals in 14 states and the Federal District concluded that psychiatric patients received inadequate medical care, which was exacerbated by the lack of inspection procedures. On July 4, police raided an unlicensed facility for mentally disabled persons in Sao Jose dos Campos, Sao Paulo State. The facility housed 40 persons, 20 of whom were present during the raid. Police found malnourished and sick victims with signs of physical abuse. Patients complained of poor treatment, including detention in small and unventilated rooms, little food, and inadequate medical attention. A female patient reported that she had been abused sexually by one of the owners, Roberto Augusto de Oliveira. Owner Sirlene Aparecida de Oliveira was indicted for mistreatment and was released pending trial. Robert Oliveira and his wife Margarida fled.

National/Racial/Ethnic Minorities.—Although the law prohibits racial discrimination, darker-skinned citizens, particularly Afro-Brazilians, frequently encountered discrimination.

The law specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. The law also prohibits and provides jail terms for the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets.

Afro-Brazilians were significantly and pervasively underrepresented in professional positions and in the middle and upper classes, experiencing a higher rate of unemployment and earning an average wage approximately half that of a white person. The UN special rapporteur on the judiciary noted that persons of African descent occupied less than 1 percent of the senior posts in the judiciary and the Public Prosecutor's Office.

There was also a sizeable racial education gap. According to the education ministry, Afro-Brazilians received an average of 5.3 years of schooling compared with 7.1 years for whites. Afro-Brazilians constituted 16 percent of the university population. Major public universities in the states of Sao Paulo, Rio de Janeiro, Parana, Mato Grosso, Bahia, and the Federal District of Brasilia maintained affirmative action programs; for instance, the University of Brasilia set aside 25 percent of its first-year vacancies for self-declared students of color.

On April 13, an Argentine soccer player was arrested for using racial slurs during a match in Sao Paulo; he was charged with qualified injury, aggravated by racism, and was detained two days and fined \$3 thousand (8,400 reais). It was the first time that authorities had invoked the law for conduct during a sporting event.

In June a student newspaper at the University of Sao Paulo published racially insensitive comments about Afro-Brazilians with references to slavery. Editors of the newspaper retracted the comments after students and school officials protested.

During the week of July 18, a court ruled in favor of an Afro-Brazilian man who claimed racial discrimination for his firing by the Copacabana Palace Hotel in Rio de Janeiro City in 2003. The court awarded \$65 thousand (150 thousand reais) in damages.

Indigenous People.—The law grants the indigenous population broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, in practice, the government did not secure these rights.

The country had an indigenous population of approximately 400 thousand persons belonging to 215 "nations." The government estimated that more than half of indigenous people lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts. The FUNAI reported that indigenous people faced many problems, including disease and poor health care, loss of native culture, and recurring incursions and illegal mining and extraction activities on indigenous lands. Road construction and deforestation were also threats.

Indigenous leaders and activists complained that indigenous people had only limited participation in decisions taken by the government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders.

During the year Indigenous TV began nationwide broadcasts to disseminate information about indigenous life and culture. The station received support from the

Raoni Foundation, the NGO Planetary Union, the Ministry of Culture, and various international institutions.

AI published a report in March that criticized the government's lack of a clear indigenous policy and assessed living conditions among the indigenous population. AI found that indigenous people continued to be victims of attacks, killings and other forms of discrimination. The report noted that the government's failure to demarcate indigenous territories and the slow demarcation process contributed to violence, racial discrimination, and other human rights abuses. AI also reported that reservations and other indigenous communities were plagued with malnutrition, poor health care, violence, and suicide.

From January to mid-May, 21 indigenous children died of malnutrition and associated conditions in Mato Grosso do Sul State. FUNAI attributed the deaths to the indigenous people's poor access to land for growing crops and isolation from the outside economy. In response to the crisis, FUNASA accredited three nearby hospitals to treat indigenous patients, and the government provided additional funds to local hospitals serving the local indigenous population. On May 25, after an on-site investigation at the indigenous reserve of Dourados in the state of Mato Grosso do Sul, a government commission issued a report with 52 health-related recommendations to various government entities.

A FUNASA study released during the year reported that indigenous communities in Acre, Mato Grosso, and Para states had infant mortality indices of 115, 134, and 102 per thousand, respectively, compared with a national rate of approximately 33 per thousand. The study cited a lack of access to arable land and poor sanitation as the leading contributors to infant death.

The 1988 constitution charged the federal government with demarcating indigenous areas within 5 years. The complete process includes four phases: identification, declaration, approval, and registration. By year's end at least 326 of the 583 recognized indigenous areas had reached the final registration stage, 159 were in one of the four phases of the registration process, and 98 had yet to be processed. The demarcation of 11 indigenous lands in Mato Grosso do Sul State remained disputed at year's end. Identified indigenous territory constituted 12.5 percent of the national territory.

The law provides indigenous people with the exclusive beneficial use of the soil, waters, and minerals on indigenous lands but only if the Congress approves each case. The government administered the lands but was obliged to consider the views of the affected communities regarding their development or use, and communities have the right to "participate" in the benefits gained from such use.

Nonindigenous people, who illegally exploited indigenous lands for mining, logging, and agriculture, often destroyed the environment and wildlife, spread disease, and provoked violent confrontations. FUNAI acknowledged a lack of resources to protect indigenous lands from encroachment, and it depended on the understaffed and poorly equipped Federal Police for law enforcement on indigenous lands.

Disputes between indigenous and nonindigenous people occasionally erupted into violence. Most conflicts concerned land ownership or resource exploitation rights in which some indigenous people resorted to forceful occupation, hostage taking, and killing.

Land invasions by indigenous groups continued and sometimes resulted in violence and killings. On July 26, Dorival Benites of the Guarani-Kaiowa tribe was killed during a conflict when he and 200 other tribe members entered the Sao Benedito farm near Sete Quedas in Mato Grosso do Sul State; 4 other tribe members were injured. The group claimed that the farm was on indigenous land. On July 1, Guarani-Kaiowa tribal members attempted to invade the Cristal farm near Dourados, Mato Grosso do Sul State, and briefly held two FUNAI mediators hostage.

On August 7, approximately 20 members of the Apiaca tribe in northern Mato Grosso State attacked a lodge and held 10 hostages. Indigenous people claimed that they gained the land through demarcation, while the title owner, who was injured in the attack, believed that he retained legal ownership.

On April 15, President Lula signed a decree to demarcate the Raposa Serra do Sol Indigenous Territory, a 4.2 million acre reservation in Roraima State that was home to approximately 16 thousand indigenous people from 164 different indigenous groups.

On July 20, Truka tribal leader Edilene Bacerra Pajeu presented a report to UN Special Rapporteur Philip Alston on the killings of 18 indigenous persons during the first 7 months of the year, including details regarding the deaths and imprisonment of Truka Indians in Pernambuco State. On July 27, the Federal Supreme Court president issued an injunction suspending the ratification process of the Nande Ru Marangatu indigenous reserve in Mato Grosso do Sul State, which was home to

1,115 Guarani-Kaiowa Indians. The decision was under appeal at year's end. Indigenous people from the reserve complained of constant threats from cattlemen. On December 15, Federal Police forcibly moved 400 members of the tribe to an area of the Nade Ru Marangatu reserve that was too small to accommodate the group. As a result, many built temporary shelters on the side of roadways.

On December 24, Dorvalino Rocha, a member of the Guarani-Kaiowa tribe, was shot to death on a ranch near Antonio Joao, Mato Grosso do Sul State. On December 27, private security guard Joao Carlos Gimenes was indicted for the crime, and the trial was pending at year's end.

On August 4, the long-delayed trial of military police officer Rossini Jose de Moura, charged with the 1996 killing of Shanenawa Indian Raimundo Silvino, resulted in an acquittal by the jury, which accepted Moura's claim of self defense. The NGO Indigenous Missionary Council reported that witnesses saw Moura's defense lawyers dining in public with the judge and a member of the jury after the trial.

In 2003 only 1,300 indigenous students of the approximately 400 thousand indigenous population attended college. Some universities, such as the University of Brasilia (UNB), maintained affirmative action programs for indigenous people; however, only 15 of UNB's 21,500 students were indigenous.

Other Societal Abuses and Discrimination.—There was a history of societal violence against homosexuals. State and federal laws prohibit discrimination based on sexual orientation, and the federal and state governments generally enforced these laws.

The Bahian Gay Group reported that 63 homosexuals were killed between January and July, compared with 158 for all of 2004.

The Secretariat of State Security in Rio de Janeiro State in partnership with NGOs, operated a hot line and offered professional counseling services to victims of antihomosexual crimes.

Pursuant to a July 27 federal court ruling, same-sex partners in a "stable union" are eligible to receive the same benefits as heterosexual couples.

On June 15, the Minas Gerais Court of Justice ruled in favor of a girl whose private school enrollment was revoked in 2003 based upon her mother's HIV status; the young girl was not HIV positive. The court awarded the mother and daughter \$1,500 (3,500 reais) in moral damages.

Section 6. Worker Rights

a. The Right of Association.—The law provides for union representation of all workers (except members of the military, the uniformed police, and firefighters) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment (MLE), which accepts the registration unless objections are filed by other unions. Unions that represent workers in the same geographical area and professional category may contest registration, in which case the MLE's Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MLE does not register the union. Union organizers may challenge this decision in the labor courts.

The law stipulates certain restrictions, such as *unicidade* (one-per-city), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement and the International Confederation of Free Trade Unions criticized *unicidade*. While a number of competing unions existed, the MLE and the courts enforced *unicidade* in decisions regarding the registration of new unions.

Approximately 16 percent of the work force was unionized. Most informal sector workers, including self-employed workers and those not formally registered with the MLE, fell outside the official union structure; they therefore did not enjoy union representation and usually were unable to exercise fully their labor rights. The informal sector accounted for approximately one-half of the labor force. In the agricultural sector, 70 percent of workers were unregistered.

Intimidation and killings of rural labor union organizers and their agents continued to be a problem. The CPT reported that violence in rural areas victimized labor leaders, with the perpetrators enjoying relative impunity (see section 1.a.). The CPT reported that 10 rural labor leaders were killed during the year and 84 received death threats.

Although the law prohibits the dismissal of employees who are candidates for or holders of union leadership positions and requires employers to reinstate workers fired for union activity, authorities at times did not effectively enforce laws protecting union members from discrimination. Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances were slow and cumbersome. There were approximately

1.4 million complaints registered in labor courts during the year. Parties generally agreed that, when ultimately resolved, cases were decided fairly and on their merits. Although most complaints were resolved in the first hearing, the appeals process introduced many delays, and some cases remained unresolved for 5 to 10 years. Unlike the preceding year, the trial backlog rose during the year.

b. The Right to Organize and Bargain Collectively.—Collective bargaining was widespread in the formal sector. The law obliges unions to negotiate on behalf of all registered workers in the professional category and geographical area they represent, regardless of whether an employee pays voluntary membership dues to the union.

The law provides workers (except for the military, military police, and firefighters) with the right to strike, and workers exercised this right in practice. While the civil police were allowed to form unions and conduct strikes, the military police were prohibited from organizing.

The law stipulates that a strike may be ruled “abusive” by labor courts and be punishable by law if a number of conditions are not met, such as maintaining essential services during a strike, notifying employers at least 48 hours before the beginning of a walkout, and ending a strike after a labor court decision. Employers may not hire substitute workers during a legal strike or fire workers for strike-related activity provided that the strike is not ruled abusive. In practice employers did fire strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process (see section 6.a.).

There are no special laws or exemptions from regular labor laws in the country’s four free trade zones.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, forced labor and trafficking of workers occurred in many states (see section 5), most commonly in activities such as: forest clearing, logging, charcoal production, raising livestock, and agriculture, particularly harvesting sugarcane, coffee, and cotton. Forced labor typically involved young men drawn from the impoverished northeast to work in the north and central west of the country, but women and children, typically working with their parents, also were engaged in activities such as charcoal production.

Labor inspectors also found immigrants working in conditions of forced labor in Sao Paulo State. In April Sao Paulo City launched an investigation of the labor conditions of the estimated 60 thousand illegal Bolivian immigrants working in the city. According to the Catholic-based NGO Migrant Pastoral Catholic, many of these workers were compelled to work approximately six months to pay “coyote” smuggling fees. There was no additional information pertaining to the investigation’s results at year’s end. Government officials indicated that Korean and Chinese laborers also were exploited in urban sweatshops under conditions that possibly involved fraud or coercion.

On September 2, authorities arrested 3 truck drivers near Londrina, Parana State, for trafficking 44 Bolivians into the country. On September 6, authorities arrested a Korean businessman in the city of Sao Paulo for forcing 12 Bolivians to work in a sweatshop. The Bolivians worked from 7 a.m. to 10 p.m. and lived, slept, and worked in the same room. The workers rented the machines they used and received approximately 40 cents for each garment they produced.

The ILO’s annual report on forced labor estimated that there were 25 thousand slave laborers in the country, concentrated mainly in the states of Para and Mato Grosso. Although forced labor continued to be a serious problem, the ILO commended the government for a number of measures it took to eliminate it.

Labor intermediaries (*gatos*) trafficked most forced laborers to the remote estates where they worked. At the worksite, laborers were forced to work in harsh conditions until they repaid inflated debts related to the costs of travel, tools, clothing, or food. Armed guards sometimes were used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm usually were sufficient to prevent laborers from fleeing.

The CPT reported that fleeing workers were killed or beaten to intimidate others at the worksite. On May 8, Rio Grande do Sul State police arrested Reginaldo Batista, who worked as a foreman in a farm owned by businessman Luiz Carlos Berti, in the municipality of Sao Francisco de Paula, where 34 rural workers, including 4 minors, were kept in conditions similar to slavery. According to the local police chief, the foreman used a rifle to threaten the workers. Dire poverty, low levels of education, and a lack of awareness about their rights contributed to workers’ vulnerability to forced labor schemes.

The law provides that violators of forced or compulsory labor laws may be sentenced up to eight years in prison. The law also provides penalties for various

crimes related to forced labor, such as recruiting or transporting workers or obliging them to incur debt as part of a forced labor scheme. The abolition of forced labor was hindered by failure to impose effective penalties, the impunity of those responsible, delays in judicial procedure, and the absence of coordination between the various government bodies.

The law also allows the government, after compensating the landowner, to seize lands on which forced labor has been found and to distribute the property in the government's land reform program.

There were few criminal prosecutions relating to forced labor because of the lack of a clear legal definition; local political pressure; weak coordination among the police, the judiciary, and prosecutors; the remoteness of areas in which forced labor was practiced; witnesses' fear of retaliation; and police failure to conduct criminal investigations when accompanying labor inspectors on raids. Since violators of forced labor laws enjoyed virtual impunity from criminal prosecution, the government used fines and other disincentives to penalize violators. The government withholds credit to farms using forced labor. In January the labor ministry identified 65 additional employers who subjected workers to slave labor conditions, bringing to 166 the number of employers so sanctioned since the 2003 inception of the "black-list."

The Executive Group to Combat Forced Labor coordinated the government's efforts to eliminate forced labor. The group's enforcement arm, the Special Group for Mobile Inspection, had responsibility for locating and freeing workers trapped in forced labor. The mobile unit worked in conjunction with federal police officers, who sometimes accompanied labor inspectors on raids to provide protection. Mobile teams levied fines on estate owners using forced labor and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin.

In February the attorney general's labor office uncovered slave labor conditions in the construction of the Forum of Cabo Frio, a building that is part of the judicial system in a town north of Rio de Janeiro City. Seventy workers reportedly were brought from Bahia and Sao Paulo states to labor 15 hours a day, 7 days a week. The workers' housing lacked ventilation and potable water and had only one bathroom. The construction company held the laborers' work permits to prevent them from fleeing. Judicial proceedings against the two construction companies were pending at year's end.

According to the Ministry of Labor's Mobile Inspection Group, the government released 1,547 slave laborers during the year. On June 3, labor inspectors released 34 forced workers on a farm near Salvador, Bahia State. On June 14, labor inspectors released approximately 1,200 forced laborers at the Gameleira Distillery in Mato Grosso State. The distillery's owner, Eduardo Queiroz Monteiro, was fined \$630 thousand (1.45 million reais) in back-pay and was ordered to arrange relocations for the slave laborers.

On May 19, 75 companies, 11 labor federations, and 13 civil society organizations signed an agreement with the labor ministry committing to ensure that their suppliers were not involved in slave labor. There were no reports on compliance. From January to November, the task force liberated 3,524 forced laborers in 163 different locations compared with 2,887 in all of 2004.

The 2004 case against Senator Joao Ribeiro in Para State for having 38 forced laborers on his farm remained pending at year's end.

Although mobile units enjoyed some success in freeing those working in slave-like conditions, inspectors sometimes faced resistance (see section 1.a.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the law restricts work that may be performed by children, child labor continued to be a widespread problem.

The minimum working age is 16 years, and apprenticeships may begin at age 14. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions; however, the authorities rarely enforced additional legal restrictions intended to protect working minors under age 18. The law requires parental permission for minors to work as apprentices, and apprentices must attend school through the primary grades. Nonetheless, in 2004 the IBGE estimated that there were 5.1 million child laborers between the ages of 5 and 17. Approximately half of child laborers received no income, and 90 percent worked in the unregistered informal sector. Slightly more than half of child laborers worked in rural areas, and two-thirds were boys.

A report of the Institute for Work and Society Studies identified 69 main rural and urban activities in which children worked. Common rural activities included: harvesting corn, manioc, and other crops; fishing; mining; raising livestock; and pro-

ducing charcoal. In urban areas children worked in shoe shining, domestic services, transportation, construction, restaurants, street peddling, begging, drug trafficking, and prostitution (see section 5). The ILO estimated that approximately 20 percent of 10- to 14-year-old girls worked as household domestics. Most of these workers received less than half the minimum wage and worked in excess of 40 hours a week.

The hidden and informal nature of child labor made children especially vulnerable to workplace accidents. For instance, children who produced charcoal, sisal, sugarcane, and footwear suffered from dismemberment, gastrointestinal disease, lacerations, blindness, and burns caused by applying pesticides with inadequate protection.

The MLE was responsible for inspecting worksites to enforce child labor laws; its regional offices had special groups to enforce child labor laws, principally by gathering data and developing plans for child labor inspection. Nonetheless, most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and the media. Labor inspectors continued to prioritize inspections in the informal sector, but they remained unable to enter private homes and farms, where much of the nation's child labor was found. In most cases, inspectors attempted to reach agreements and to have employers desist from labor law violations before levying fines of \$143 (400 reais) per violation. As a result, few employers were fined for employing children.

MLE inspectors often worked closely with labor prosecutors from the Public Ministry of Labor (MPT)—an independent agency responsible for prosecuting labor infractions—which had broader powers and was able to impose larger fines. The MPT has a national commission to fight child labor. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash collecting, apprenticeships, and work in a family setting.

The Ministry of Social Development coordinated the government's Program for the Eradication of Child Labor (PETI), which provided cash stipends to low-income families who kept their children in school and out of work. Because the public school day lasts only four hours, PETI emphasized complementary educational activities for children during non-school hours as an alternative to working. Approximately 569 thousand children benefited from this program, which contributed to a 50 percent decline in child labor since 1995 to an estimated 2.7 million persons in 2003.

To prevent child labor and promote education, the government also continued to promote its family stipend program (*Bolsa Familia*), which provides approximately \$6 to \$40 (15 to 95 reais) monthly to low-income rural and urban families for each child (up to a total of three children per family) between the ages of 6 and 15 whose school attendance rate was 85 percent. Municipal governments had primary responsibility for day-to-day management of the program. At year's end the program provided stipends to over 8.7 million families in more than 5,560 municipalities. In addition to the federal program, an estimated 100 municipal governments operated stipend programs.

In June the Federal District local government released a report noting that, in mid-2004, approximately 786 child laborers worked in Brasilia. These minors, most of whom were primary school-age boys, were engaged in activities ranging from domestic labor to work in land dumps. According to the report, 90 percent of the child laborers attempted to balance their work with school, while 7 percent reported that they no longer attended classes.

NGOs supported the government's child labor elimination programs. For example, the National Forum for the Prevention and Eradication of Child Labor, with chapters in every state and more than 40 institutional members from the government and private sector, promoted debate and broad analysis of national child labor prevention efforts. In addition the Centers for the Defense of Children and Adolescents were active in many parts of the country and reported violations of children's rights. The Pro-Child Institute, in Sao Paulo State, coordinated a labeling program to reduce instances of child labor in the footwear industry.

The ILO's Program on the Elimination of Child Labor focused on capacity building, awareness raising, research, income generating schemes, and monitoring systems in child labor prevention programs. The ILO also coordinated a program to reduce sexual exploitation of children and child labor in domestic services (see section 5).

UNICEF supported programs to remove children from exploitative work situations and place them in schools, in part by providing scholarships to families and helping adults in those families find other forms of income generation.

The private sector also played a role in fighting child labor. The toy industry's Foundation for Children's Rights operated a labeling program that identified companies with child-friendly policies and a commitment to eliminate child labor. The foundation also fostered initiatives through its awards programs for organizations,

journalists, and mayors. All major labor centrals implemented programs to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

e. Acceptable Conditions of Work.—The national minimum wage did not provide a decent standard of living for a worker and family. The government adjusts the minimum wage annually and in May raised it from approximately \$125 to \$130 (from 288 reais to 300 reais) per month. The IBGE estimated that approximately one in three workers earned the minimum wage or less.

The law limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also prohibits excessive compulsory overtime and stipulates that hours worked above the weekly limit must be compensated at time and a half pay; these provisions generally were enforced in the formal sector.

Although the Ministry of Labor sets occupational, health, and safety standards that are consistent with internationally recognized norms, the government devoted insufficient resources for adequate inspection and enforcement of these standards. Unsafe working conditions were prevalent throughout the country. During 2004 workplace accidents increased to 458,956 (from 390,180 in 2003), and deaths from accidents increased to 2,801 (from 2,582 in 2003). Employees or their unions may file claims related to worker safety with regional labor courts, although this was frequently a protracted process.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. Such firings did occur, however, and legal recourse usually required years for a resolution. The MPT reported that numerous firms used computerized records to compile “blacklists” identifying workers who had filed claims in labor courts. Individual workers did not have the legal right to remove themselves from the workplace when faced with hazardous working conditions, but workers could express such concerns to a company committee for an immediate investigation.

CANADA

Canada, with a population of 32.8 million, is a constitutional monarchy with a federal parliamentary form of government. Elections were held in June 2004, and until dissolution of parliament on November 29, Prime Minister Paul Martin led a minority Liberal government. Federal elections were scheduled for January 23, 2006. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- harassment of religious minorities
- violence against women
- trafficking of persons to and from the country

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them. However, in September the Royal Canadian Mounted Police (RCMP) began investigating allegations of brutality in the arrest and imprisonment in the Natuashish community of northern Labrador of an indigenous man with a broken arm who was left overnight in a police station without medical attention; the investigation was pending at year’s end.

The Winnipeg police and the Law Enforcement Review Agency investigated allegations of physical abuse of a person with a criminal history who was arrested on September 23. The police claimed that the suspect, whose injuries necessitated hospital treatment, were the result of an accidental fall at the police station. The investigation remained pending at year’s end.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

In February Correctional Service Canada began addressing the 19 recommendations made in the January 2004 Canadian Human Rights Commission report, which identified systemic flaws that routinely eroded the human rights of women in prison. Several of the recommendations have been implemented, including a reevaluation of staffing and a needs assessment for federally sentenced women.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The RCMP is an effective national, federal, provincial, and municipal policing body. It provides complete federal policing service throughout the country and also provides policing services under contract to the 3 territories, 8 provinces (Quebec and Ontario have their own provincial police), approximately 198 municipalities, and, under 172 individual agreements, 192 indigenous communities. The RCMP has internal review mechanisms; corruption and impunity were not problems.

Arrest and Detention.—Authorities generally apprehended persons openly with warrants. A judge may issue a warrant after being satisfied that a criminal offense may have been committed. A person arrested for a criminal offense has the right to remain silent, to be informed as to the reason for the arrest, to engage a lawyer, and to have prompt access to family members. Bail generally was available.

In December 2004 the Federal Court of Appeal affirmed that it was constitutional for the government to arrest and detain, without public trial, noncitizens who pose a threat to national security. Cases are presented in secret to two cabinet ministers by intelligence or police agencies and then reviewed by a federal judge. The evidence generally is not shown to the detained individual. If the judge approves the ministers' recommendation, the individual may be imprisoned indefinitely, pending deportation proceedings. This procedure has been used 27 times since 1991. As of October, pursuant to this procedure, four individuals were incarcerated awaiting deportation; two other detainees were conditionally released, subject to the administrative deportation process.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The court system is divided into federal and provincial courts, which handle both civil and criminal matters. The highest federal court is the Supreme Court, which exercises general appellate jurisdiction and advises on constitutional matters.

Trial Procedures.—The judicial system is based on English common law at the federal level as well as in most provinces; in Quebec Province, it is derived from the Napoleonic Code. Throughout the country, judges are appointed. In criminal trials, the law provides for a presumption of innocence and the right to a public trial, to counsel (which is free for indigents), and to appeal. The prosecution also may appeal in certain limited circumstances.

An Ontario law permits Islamic organizations to hold tribunals in which marriage, family, and business disputes could be settled according to Shari'a law. The tribunals were voluntary, and decisions had to comply with the Charter of Rights and Freedoms and could be appealed to the court system. On September 11, Ontario's premier announced his government's intention to end civil endorsement of religious arbitration decisions in the province, and on November 15, the Ontario attorney general introduced legislation to end religious arbitration in family matters. On May 26, the National Assembly of Quebec passed legislation prohibiting the use of Islamic courts and Shari'a law in Quebec.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press. The independent media were active and expressed a wide variety of views without restriction.

The Supreme Court has ruled that the government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. It also ruled that the benefits of limiting hate speech and promoting equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms.

Inciting hatred (in certain cases) or genocide is a criminal offense, but the Supreme Court has set a high threshold for such cases, specifying that these acts must be proven to be willful and public. The Broadcasting Act prohibits programming containing any abusive comment that would expose individuals or groups to hatred or contempt. Provincial-level film censorship, broadcast licensing procedures, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography also imposed some restrictions on the media.

In early May Toronto police charged a man with two counts of promotion of hatred that stemmed from nonviolent incidents of targeting Muslims, Arabs, and Jews between June and October 2004 at Ryerson University. He was charged with spray painting anti-Muslim graffiti in the multifaith prayer room on campus and anti-Semitic graffiti elsewhere around the university campus.

On July 8, a Saskatoon court found the former leader of the Assembly of First Nations guilty of willfully promoting hatred against Jews under the hate propaganda provisions of the Criminal Code and fined him \$850 (Cdn \$1 thousand). The charges stemmed from remarks made in a 2002 public address to the Federation of Saskatchewan Indian Nations. The case remained under appeal at year's end.

On September 1, the Federal Court of Appeal upheld the Canadian Radio-Television and Telecommunications Commission's July 2004 decision denying a renewal of a Quebec City radio station's broadcasting license. The general public had filed numerous complaints alleging that announcers on the station used offensive comments, personal attacks, and harassment as part of their programming. The station, which fired the talk show host, asked the Supreme Court to overturn the appeals court ruling. The station remained on the air, pending a supreme court ruling on whether to hear the case.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

There is no official state religion, and religious groups are not required to register with the government. Public funding for Roman Catholic schools is constitutionally protected in the country's original four provinces.

There was litigation concerning prohibitions against the wearing of *kirpans* (ceremonial daggers) by Sikhs; cases were often settled out of court. The rationale for the prohibitions involved security concerns rather than religious discrimination. A case brought by a Sikh elementary student in Montreal, who was prohibited from wearing his *kirpan* at school, remained pending in the Supreme Court at year's end. In early 2004 the Quebec Court of Appeal had overturned a 2002 Quebec Superior Court ruling that permitted the student to wear his *kirpan* to school.

In September and October, a Sikh law student was twice prohibited from riding on national rail carrier trains because he was wearing a *kirpan*. Company officials, responding to another passenger's complaint and referring to its baggage policy that bans weapons, required that the Sikh passenger disembark. Company policy makes no exceptions for religious symbols. The student's appeal to the Ontario Human Rights Commission for redress remained pending at year's end.

Societal Abuses and Discrimination.—There were a number of reports of harassment of religious minorities.

Approximately 1.1 percent of the population is Jewish. The League for Human Rights of B'nai Brith received 857 reports of anti-Semitic incidents in 2004, compared with 584 such reports in 2003. Incidents included harassment (53 percent of incidents), vandalism of property (43 percent), and violence (4 percent). The group expressed concern about a resurgence in neo-Nazi activity. In December, on the eve of Chanukah, Beth Shalom Synagogue in Edmonton was spray-painted with a swastika and the acronym ZOG (Zionist Occupied Government). The press reported that the provincial police hate crimes unit was investigating.

On January 19, one of the main suspects in the April 2004 firebomb attack on a Montreal Jewish elementary school was sentenced to 40 months in prison minus time served. The convict's mother also faced trial on charges of being an accessory after the fact. Letters attached to the front of the school claimed that the attack

was linked to the March 2004 killing of Hamas founder Sheik Ahmed Yassin in Gaza.

Three men were convicted of vandalism in connection with a north Toronto crime spree in 2004 that included the desecration of Jewish cemeteries, schools, and synagogues. Two minors and one adult offender were sentenced to two years of probation plus community service.

On February 16, a Toronto court sentenced a man to life imprisonment without a chance of parole for at least 15 years for the 2002 murder in Toronto of an Orthodox Jew, an incident in which the perpetrator uttered anti-Jewish epithets prior to the attack.

According to the Council of American-Islamic Relations Canada's June 8 report *Presumption of Guilt: A National Survey on Security Visitations of Canadian Muslims*, there was increasing concern in the Muslim community about visits by security officials, both at home and in workplaces. According to the report, authorities made a disproportionate number of visits to Arab males between the ages of 18 and 35. The report detailed seven specific cases in which security officials were alleged to have discouraged legal representation, failed to provide proper identification, or used threats and threatening behavior in the course of their interviews. These and other activities raised allegations of religious profiling. The report remained under federal government consideration at year's end.

The government urged the population to refrain from prejudice against Muslims or other persons on the basis of their religious beliefs, ethnic heritage, or cultural differences. Police forces investigated and discouraged anti-Muslim actions.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the 1966 International Covenant on Civil and Political Rights, and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The government has established a system for providing protection to refugees. The government granted refugee status or asylum. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. As of September 30, approximately 16,208 individuals either in the country or abroad were resettled and given refugee status.

In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government offered alternatives to refugee claimants whose cases have been refused by the Immigration and Refugee Board. The option for judicial review through the federal court exists, although the government delayed establishing the Refugee Appeal Division called for in the 2002 Immigration and Refugee Protection Act. Two other remedies of last resort are available through Citizenship and Immigration-Canada. They include the initiation of a "pre-removal risk assessment" process as well as an appeal to the minister for citizenship and immigration services for a waiver based on humanitarian and compassionate grounds.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In the free and fair multiparty June 2004 general election the ruling Liberal Party maintained control of parliament for the fourth consecutive election. Since it did not win a majority of seats, the Liberal Party formed a minority government. Federal elections were scheduled for January 23, 2006.

Prior to the dissolution of parliament on November 29, there were 65 women and 6 indigenous people (Inuit, North American Indian, or Metis) in the 308-member House of Commons. There were 38 women and 8 indigenous members in the 105-seat Senate (whose members are appointed by the government, and not elected, and in which there 93 members at year's end). Women held 9 seats in the 39-person cabinet. The governor general and four of the nine members of the Supreme Court, including the chief justice, were women.

Government Corruption and Transparency.—The nongovernmental organization (NGO) Transparency International reported that corruption was not perceived as a problem, although the perception of corruption has increased markedly over the past 10 years.

There were isolated reports of government corruption during the year, and there was concern about the lack of enforcement of whistleblower legislation. Career civil servants found to be engaged in malfeasance of any kind were removed from office and prosecuted.

On November 1, an independent commission appointed by the prime minister, the Commission of Inquiry into the Sponsorship Program and Advertising Activities or Gomery Commission, released the first part of its two-part report. The report established that nearly half of the \$309 million (Cdn \$355 million) in federal funds authorized to promote federal Canada in Quebec from 1996 to 2001 was paid in commissions and fees to advertising agencies, many allied with the Quebec branch of the federal Liberal Party, and that up to \$87 million (Cdn \$100 million) was inappropriately channeled to the Liberal Party of Canada's Quebec operations. The report criticized former prime minister Jean Chretien and his chief of staff but cleared them of direct involvement in kickback schemes. Several senior advertising executives were charged with fraud, and some former and current Liberal Party officials were forced to resign. Former prime minister Chretien's appeal to have the findings of the report invalidated remained pending at year's end.

The Gomery Commission findings prompted extensive media coverage, tarnished the reputation of the government, especially in Quebec, and led to the conviction of one Montreal advertising executive, while trials for others remained pending. In May the businessman pled guilty to defrauding the federal government of \$1.35 million (Cdn \$1.55 million) and was sentenced to two years less a day, to be served in the community, rather than in jail. A government appeal on the leniency of the sentence remained pending.

The law permits public access to government information by citizens and noncitizens, including foreign media. Pursuant to the January 2004 initiative to improve transparency in government that included the releasing on a quarterly basis the public expenditures of senior government officials, the government published expense information on individual ministerial Web sites and on a centralized Web site.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equal benefits and protection of the law regardless of race, gender, national or ethnic origin, age, or mental or physical disability; these rights generally were respected in practice.

In July the law extended equal access to civil marriage to same-sex couples. Previously, eight provincial courts and one territorial court found that the opposite-sex requirement for civil marriage was discriminatory and violated the Charter of Rights and Freedoms.

Women.—Although prohibited by law, violence against women, including spousal abuse, remained a problem. The government's statistical office reported that there were 73.7 sexual assaults per 100 thousand population in 2004, down from 74.1 in 2003.

The 2004 General Social Survey estimated that 7 percent of citizens 15 years of age or over in a current, previous, or common-law union experienced spousal violence in the previous 5 years, a figure unchanged from its 1999 survey. Four percent of both men and women in current marital or common-law relationships experienced either physical or sexual violence from their partner. Indigenous (aboriginal) people were three times more likely to be victims of spousal violence than nonindigenous people. The rate of spousal violence among those who are gay or lesbian was twice that of the reported violence experienced by heterosexuals. Women were more likely than men to report that they were injured as a result of the violence (44 versus 18 percent).

Persons convicted of sexual abuse may be penalized with up to 10 years in prison. Sexual assaults involving weapons, threats, injuring, or endangerment of life carry sentences up to life imprisonment.

There were more than 500 shelters for abused women, which provided both emergency care and long-term assistance. The government's family violence initiative in-

volving 12 departments and a cabinet ministry, Status of Women Canada, was charged with eliminating systemic violence against women and advancing women's human rights.

In September Amnesty International reported that there were no changes to its 2004 findings that the government failed to provide indigenous women with adequate protection and that the precarious social and economic status of indigenous women pushed them into dangerous situations including poverty, homelessness, and prostitution.

Prostitution is legal, but the law prohibits pimping (benefiting from the earnings of prostitution of another) and operating, being found in, or working in a brothel.

Women were trafficked for purposes of sexual exploitation (see section 5, Trafficking).

The law prohibits criminal harassment (stalking) and makes it punishable by up to 10 years' imprisonment. The law does not contain a specific offence of "sexual harassment" but contains criminal prohibitions that may be applicable in addressing this conduct, such as criminal harassment and sexual assault. Penalties for sexual assault vary, depending on the offence, and range from 10 years' imprisonment for nonaggravated sexual assault and up to life imprisonment for aggravated sexual assault. Most harassment cases were settled out of court. The government generally enforced this prohibition.

Women were well represented in the labor force, including business and the professions. Employment equity laws and regulations cover federal employees in all but the security and defense services. Women have marriage and property rights equal to those of men.

Children.—The government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care. Education is free through grade 13 and is compulsory nationwide through age 15 or 16, depending on the province. The UN Children's Fund reported that 100 percent of elementary-age children attended school; high school was the highest level completed by most children. Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

According to the 2004 General Social Survey, children and youth under the age of 18 accounted for 21 percent of victims of physical assault and 61 percent of victims of sexual assault, while representing 21 percent of the population. In 40 percent of the cases, parents were the ones accused of sexual assault against children and youth.

Children were trafficked for purposes of sexual exploitation (see section 5, Trafficking).

Trafficking in Persons.—Although the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country.

In November the government amended the criminal code to make trafficking in persons a specific criminal offense and prohibit global trafficking in persons, benefiting economically from trafficking in persons, and withholding or destroying documents to facilitate trafficking in persons. The 2002 Immigration and Refugee Protection Act (IRPA) establishes criminal penalties of up to life in prison and fines of up to \$870 thousand (Cdn \$1 million) for convicted cross-border traffickers. The government prosecutes all forms of trafficking, including kidnapping, forcible confinement, uttering threats, sexual assault, prostitution-related offenses, and extortion.

On April 14, Vancouver police brought the first case under IRPA against the owner of a massage parlor who was charged with two counts of human trafficking for bringing women into the country under false pretenses and coercing them into prostitution. The case was pending at year's end.

During the 12-month period ending in February, authorities charged at least 31 individuals under the criminal code with trafficking-related offenses and obtained 19 convictions.

The government has an interdepartmental working group, consisting of 17 departments and agencies and co-chaired by senior officials from the Ministries of Justice and Foreign Affairs, to combat trafficking in persons. In September the government designated RCMP members for their newly renamed Human Trafficking National Coordination Center that coordinates domestic trafficking efforts with six RCMP immigration and passport regional offices.

Through agencies such as Interpol, the government has created mechanisms to assist other countries with criminal investigations of trafficking cases.

The country was a destination and a transit point to the United States for women, children, and men trafficked for purposes of sexual exploitation, labor, and the drug trade. In its February 2004 assessment, the RCMP indicated that 800 persons were trafficked annually into the country, and 1,500 to 2,200 persons were trafficked from

the country to the United States. While the country was not a significant point of origin for trafficked persons, there was anecdotal evidence of women from the country coerced or kidnapped and forced into prostitution in the United States.

Thousands of persons entered the country illegally over the last decade. These persons came primarily from East Asia (particularly China and Korea, but also Malaysia), Central and South Asia, Eastern Europe, Russia, Latin America and the Caribbean (including Mexico, Honduras, and Haiti), and South Africa. Many of these illegal immigrants paid large sums to be smuggled to the country, were indentured to their traffickers upon arrival, worked at lower than minimum wage, and used most of their salaries to pay down their debt at usurious interest rates. The traffickers used violence to ensure that their clients paid and that they did not inform the police. Asian women and girls who were smuggled into the country often were forced into prostitution. Traffickers used intimidation and violence, as well as the illegal immigrants' inability to speak English, to keep victims from running away or informing the police.

Vancouver and Toronto served as hubs for organized crime groups that trafficked in persons, including for prostitution. East Asian crime groups targeted the country, Vancouver in particular, exploiting immigration laws, benefits available to immigrants, and the proximity to the US border.

Trafficking victims in the country illegally may avail themselves of laws and regulations to remain in the country temporarily or permanently. These include temporary resident permits which an applicant may use as the basis for permanent residence, refugee protection claims, stays of removal, applications for humanitarian and compassionate consideration, and preremoval risk assessments. However, strong anecdotal evidence suggests that some victims of trafficking were arrested and deported.

Although the government did not specifically provide funding to assist trafficking victims, such victims could access a number of programs and services, ranging from health care to legal assistance. Victims of trafficking were eligible to apply for assistance from victims' assistance funds maintained by the provincial governments.

The government's Interdepartmental Working Group on Trafficking in Persons, the policy development body for the federal government, trained officials to increase awareness about trafficking. The group also produced, translated into 14 languages, and distributed an antitrafficking pamphlet to the country's diplomatic missions and to NGOs with access to potential victims in source countries. In addition, the government supported efforts by NGOs and community organizations to raise awareness of trafficking and funded academic studies of the problem.

Persons with Disabilities.—There was no legal discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Sexual exploitation of persons with disabilities in situations of dependency is a criminal offense. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice.

The federal, provincial, and territorial governments share responsibility for protecting the rights of persons with disabilities. The Office for Disability Issues is the federal government's focal point for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The Charter of Rights and Freedoms protects the linguistic and cultural rights of minorities and establishes English and French as the country's two official languages. Despite the federal policy of bilingualism, English speakers in Quebec (9 percent of the province's population) and French speakers in other parts of the country generally lived and worked in the language of the majority. The provinces may grant French or English the status of an official language. Only New Brunswick has granted the two languages equal status. The Charter of the French Language in Quebec makes French the official language of the province and requires the use of French in commerce, the workplace, education, and government. Minority language rights are secured by law in Quebec's Charter of the French Language.

The Charter of the French Language restricts access to publicly funded English education to those students who did most of their elementary or secondary studies in English in the country. The law also permits English language education for those students with a brother or a sister who did most of their elementary or secondary studies in English in the country or for students whose father or the mother did most of his or her studies in English in the country. Quebec law also grants access to publicly funded English education to those students whose parents are residing temporarily in the province on a student or work authorization or who have diplomatic status. On March 31, the Supreme Court ruled that Francophones in Quebec have no constitutional right to publicly funded English language education

but stipulated that immigrants and families from other provinces who have moved to Quebec may access English language schools by obtaining a waiver.

Indigenous People.—The law recognizes three different groups of indigenous people (aboriginals): Indians (generally called First Nations), Inuit (formerly called Eskimos), and Metis (persons of mixed Indian-European ancestry). According to the 2001 census, indigenous people constituted approximately 3.3 percent of the national population and higher percentages in the country's three territories: Yukon, 22.9 percent; Northwest Territories, 50.5 percent; and Nunavut, 85 percent. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunting rights, and alleged harassment by police continued to be sources of tension on some reserves. Indigenous people remained underrepresented in the work force, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other population groups.

The law recognizes and specifically protects indigenous rights, including those established by historical land claims settlements. Historical treaties with indigenous groups in the eastern part of the country form the basis for the government's policies there, but there were legal challenges to the government's interpretation of treaty rights. Indigenous groups in the west that never signed historical treaties continued to claim land and resources, and many continued to seek legal resolution of outstanding issues. As a result, the evolution of the government's policy toward indigenous rights, particularly land claims, was linked closely to legal challenges, including 45 supreme court decisions.

On May 31, the government and leaders of the five national indigenous organizations agreed on a plan to use the \$609 million (Cdn \$700 million) that the government had committed in September 2004 to encourage greater aboriginal participation in the health professions, address chronic diseases such as diabetes, and create a health transition fund to adapt existing health care services to aboriginal needs. At a follow-up November 24–25 meeting of provincial premiers, cabinet ministers, and leaders of the five national indigenous groups, the federal government committed an additional \$4.35 billion (Cdn \$5 billion) over 5 years to support programs in education, housing and infrastructure, relationships and accountability, economic opportunities, and health.

In June parliament approved a land claims agreement among the federal government, the Newfoundland and Labrador provincial government, and the Inuit Association that defined rights, territory, and economic development initiatives in northern Labrador.

On July 20, the Supreme Court ruled that indigenous people in New Brunswick and Nova Scotia did not have the right to exploit natural resources on the provinces' crown lands or have aboriginal title to those lands. Nonetheless, the New Brunswick provincial government continued to work with the province's 15 indigenous communities by negotiating agreements on timber harvesting, sale, and royalty agreements.

On November 20, the government reached a multifaceted agreement with interested parties regarding cases of past institutional abuses of indigenous children (now adults) in residential institutions. The government agreed to allocate \$1.65 million (Cdn \$1.9 million) to compensate indigenous individuals for abuses that occurred in Indian residential schools. As many as 86 thousand former students may be eligible for payments of \$8,700 (\$10 thousand) plus \$2,600 (Cdn \$3 thousand) per year spent in the school. Additional payments could be awarded as a result of a new alternative dispute resolution process for those who choose to pursue that option. Payments could begin in early 2006. The settlement also provides for the establishment of national truth and reconciliation process to promote public education and awareness about the Indian residential school system.

The government continued the process of claim settlements and self-government negotiations with more than 350 First Nations communities.

There were no reported developments in the 2004 case pending before the Supreme Court on whether the government violated indigenous treaty rights in authorizing a road through the country's largest national park or in the 2002 case involving a claim by the Gitanyow indigenous group in northwestern British Columbia that a treaty had awarded much of their tribal lands to the neighboring Nisga'a people.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers in both the public (except armed forces and police) and the private sectors to form and join unions of their choice without previous authorization, and workers did so in practice.

Trade unions are independent of the government. Thirty percent of the civilian labor force held union memberships.

b. The Right to Organize and Bargain Collectively.—The law protects collective bargaining, and collective agreements covered approximately 32 percent of the civilian labor force. All workers, except for those in the public sector who provide essential services, have the right to strike, and workers exercised this right in practice. The law prohibits employer retribution against strikers and union leaders, and the government generally enforced this provision in practice. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor legislation varies from province to province. The federal government does not employ youths under age 17 while school is in session. Most provinces prohibited children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment. On July 15, the province of Alberta changed its employment standards to allow children age 12 to 14 to work in certain sectors for limited periods of time without a permit from the director of employment standards. The province of British Columbia permits employment of children between age 12 and 14, with the written consent of the child's parent or guardian, and also permits employment of children under age 12, with the permission of the director of employment standards and only in "exceptional circumstances," for instance, in the entertainment industry.

Federal and provincial labor ministries' inspections effectively enforced child labor laws and policies.

e. Acceptable Conditions of Work.—Each province and territory set minimum wage rates, which ranged from \$5.13 to \$6.95 (Cdn \$5.90 to \$8.00) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage did not provide a decent standard of living for a worker and family.

Standard work hours vary from province to province, but in all provinces the limit is 40 or 48 hours per week, with at least 24 hours of rest. The law requires payment of a premium for work above the standard workweek. There is no specific prohibition on excessive compulsory overtime, which is regulated by means of the required rest periods in the labor code that differ from industry to industry.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees. Federal and provincial labor departments monitored and enforced these standards. Federal, provincial, and territorial laws protect the right of workers with "reasonable cause" to refuse dangerous work and remove themselves from hazardous work conditions, and authorities effectively enforced this right.

CHILE

Chile is a multiparty democracy with a population of approximately 16 million. In 2000 voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. In presidential elections on December 11, Michelle Bachelet, a candidate from the Socialist Party, itself a part of the Concertacion coalition, and Alianza candidate Sebastian Pinera emerged as the top two vote-getters and moved on to a run-off election scheduled for January 15, 2006. Voters also elected 20 of the 38 senators and all 120 members of the Chamber of Deputies on December 11 in elections generally considered free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- isolated reports of excessive use of force and mistreatment by police forces and physical abuse in jails and prisons
- substandard prison conditions
- failure to advise detainees promptly of charges against them and to grant them a timely hearing
- domestic violence against women and children
- trafficking in persons to, from, and within the country
- marginalization of some indigenous people
- child labor in the informal economy

The judiciary convicted and sentenced several former officials for human rights abuses committed during the 1973–90 military regime. In September constitutional reforms took effect that removed certain limits on popular civilian rule (such as non-elected senators) and eliminated the offense of defamation against public persons and institutions.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

A number of cases from previous years, in which the police were accused of unlawful killings due to excessive use of force or mistreatment of prisoners in custody, remained under investigation or pending resolution of appeals.

On June 9, Rancagua appeals court judge Raul Mera reopened the case of Raul Pellegrini and Cecilia Magni, two activists killed in 1988. The case remained pending at year's end.

In March the Chamber of Deputies approved a \$1.5 million (780 million pesos) payment to the family of dual Chilean-Spanish citizen Carmelo Soria who was executed by National Intelligence Directorate (DINA) agents in 1976.

In September the Supreme Court upheld an appeals court ruling dropping charges against former President Augusto Pinochet in the "Operation Condor" case, citing mental health reasons and a 2001 Supreme Court ruling that Pinochet was not mentally fit to stand trial in the "Caravan of Death" case. At year's end Pinochet faced human rights charges in the "Operation Colombo" case and for financial dealings involving concealed assets, tax evasion, possible kickbacks, and misuse of public funds.

Judge Alejandro Solis continued an investigation of the 1974 car bomb assassination in Buenos Aires of former army commander Carlos Prats. Seven former DINA agents, including former DINA director Manuel Contreras, and one civilian have been indicted in the case. In March the Santiago Court of Appeals rejected Judge Solis's request to lift former President Pinochet's immunity in the case, and in April ex-DINA agent Reginaldo Valdes Alarcon was indicted as an accomplice for his involvement. At the end of the year, all those indicted in the Prats case were free on bail, except for Contreras, who was serving a 12-year sentence for the death of Miguel Angel Sandoval.

Judge Jorge Zepeda's investigation of retired security officer Rafael Gonzales, charged in connection with the 1973 killing of American citizen Charles Horman, remained pending at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

Courts prosecuted a number of cases based on plaintiffs' arguments that the abduction of political prisoners constituted an ongoing crime, not covered by amnesty, unless the subsequent execution of the subject could be established concretely by identification of remains. The Supreme Court upheld a number of convictions based on indefinite or permanent kidnapping.

In September Judge Jorge Zepeda sentenced two former DINA directors, Manuel Contreras and Marcelo Moren Brito, to seven years' imprisonment as authors of the 1974 kidnapping of former manager of Cobrechuqui (a nationalized copper company) David Silberman Gurovich. Judge Zepeda also ordered the government to pay \$2 million (1.04 billion pesos) to Silberman's widow, children, and siblings.

The judiciary continued to investigate human rights abuses committed during the former military government and, in several cases, passed sentence on those found guilty. According to the Vicariate of Solidarity (a foundation linked to the Archdiocese of Santiago), in 2004 there were 373 former officials (mostly military officials but including some civilians) charged and under investigation for human rights violations against 948 victims. The press reported that in 2004, 46 former security force members and 19 civilians were convicted of human rights violations and sentenced to prison terms; 24 of these individuals have been released after completing their sentences.

Judge Jorge Zepeda continued investigations of military-era detentions and disappearances of persons at Colonia Dignidad, now called Villa Baviera, a German-speaking settlement 240 miles south of Santiago. On March 10, settlement founder Paul Schaefer was apprehended in Argentina and returned to the country. Schaefer was subsequently indicted for his involvement in the kidnapping of four dissidents under the former military regime. Several of Schaefer's associates, including Gerard Muecke, were jailed and remained under investigation for possible human rights violations at Colonia Dignidad.

The investigation into the 1985 disappearance of US citizen Boris Weisfeiler near Colonia Dignidad remained open at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, nongovernmental organizations (NGOs) still received isolated reports of abuse and mistreatment by the Carabineros, the Investigations Police (PICH), and prison guards.

Few reports of abuse or mistreatment led to convictions. Cases of military and police abuse typically were processed in military rather than civilian courts (see section 1.e.).

On July 19, three officers in the Gendarmeria were indicted in a court of first instance in Colinas, Santiago, for a 2002 incident in which two prisoners suffered hearing loss due to alleged mistreatment at a high-security cellblock in the Colinas II prison. No further information was available.

There were isolated instances of violent confrontations between indigenous Mapuche groups and landowners, logging companies, and local government authorities in the southern part of the country. The actions took the form of protests and, occasionally, instances of rock throwing, land occupations, and burning of crops or buildings. On October 5, eight hooded individuals attacked a property owner and his wife, tying them up and burning their residence to the ground. Although the attackers have not been identified, the farm where the attack occurred had been the target of indigenous protests and occupations over a 4-year period. In November eight armed individuals held employees and their families at gunpoint while burning two cabins and an automobile at a Mininco forestry company site. Although the attackers were not identified, they left pamphlets from the Coordinadora Arauco Malleco (CAM), an indigenous group that has been accused of terrorist acts in previous land disputes.

On June 22, a judge upheld the acquittal of four CAM-related Mapuches and a nonindigenous sympathizer charged with illicit "terrorist association"; in November the Supreme Court denied the public prosecutor's appeal of the Temuco court's decision. Eight others refused to appear for trial and remained at large and sought by authorities at year's end.

Prison and Detention Center Conditions.—Prison conditions generally were poor. Prisons often were overcrowded and antiquated, with substandard sanitary conditions. There were approximately 38 thousand prisoners in prisons designed to hold 22 thousand inmates. A 2004 Diego Portales University School of Law study on prison conditions stated that, despite improvements, prison facilities such as health care remained substandard. Prison food met minimal nutritional needs, and prisoners were able to supplement their diets by buying food. Those with sufficient funds often could "rent" space in a better wing of the prison. The first of 10 newly constructed prisons intended to improve conditions opened in Rancagua in November.

In isolated instances prisoners died due to lack of clear prison procedures and insufficient medical resources in the prisons. In January the NGO Friends and Family of Prisoners reported that 26 prisoners died of various preventable causes in 2004: 13 of the deaths were due to violence between prisoners, 3 were suicides, 3 resulted from drug overdoses, and 1 was attributed to HIV-related complications. The remaining six deaths (four at Colina II prison) were due to unknown causes, with one occurring in solitary confinement.

There was no further information regarding the investigations of the 2003 fire at the El Manzano facility, which caused nine fatalities.

The government permitted prison visits by independent human rights observers, and such visits took place. These included regular visits by Catholic and Protestant clerics and the NGO Paternitas. Amnesty International and the International Committee of the Red Cross were also granted access to facilities and prisoners. Prisoner rights groups continued to investigate alleged use of excessive force against detainees and particularly were concerned with the treatment of prisoners in maximum-security prisons and prisoners with HIV/AIDS and mental disabilities who allegedly failed to receive adequate medical attention.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The 27,000-member Carabinero force, under operational control of the Ministry of Defense and the Ministry of Interior, has primary responsibility for public order, safety, traffic control, and border security. The civilian PICH, comprising approximately 3,500 detectives, is responsible for criminal investigations and immigration control. The PICH, while under the operational jurisdiction of the Ministry of Interior, also receive guidance from the prosecutor or judge responsible in a criminal investigation. The Gendarmeria, under jurisdiction of the Ministry of Justice, operates the national prison system. The po-

lice force had an extremely low incidence of corruption. Police, prison guards, and officials took courses in human rights, which are part of the core curriculum in the police and military academies.

Arrest and Detention.—Only public officials expressly authorized by law can arrest or detain citizens. The courts must be advised within 48 hours of the arrest and the detainee placed at a judge's disposition. No one can be held or detained except in their home or a jail, prison, or other public facility designed for that purpose.

While the authorities generally respected constitutional provisions for arrest and detention, detainees often were not advised promptly of charges against them, nor granted a timely hearing before a judge. However, under judicial reforms, which took final effect in June, performance improved and over 80 percent of cases were resolved within the designated period. The law allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The law allows judges to set bail. Provisional liberty must be granted unless a judge decides that detention is necessary for the investigation or for the protection of the prisoner or the public.

The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. Regular visits by family members are allowed.

The law requires that police inform detainees of their rights and expedite notification of the detention to family members. The law also prohibits police from demanding identification from or stopping persons based solely on suspicion and prohibits physical abuse by police against detained persons (see section 1.c.).

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary has civil, criminal, juvenile, family, and labor courts of first instance throughout the country. There are 16 courts of appeal. The 21-member Supreme Court is the court of final appeal. A constitutional tribunal decides whether laws or treaties present conflicts with the constitution. There are also military courts martial.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Public Defender's Offices in all 12 regions and the Santiago Metropolitan Region provide professional legal counsel to anyone seeking such assistance. The June implementation of the judicial reform law in the Santiago Metropolitan Region concluded a 6-year transformation of the national justice system from an inquisitorial to an adversarial model. The judicial reform law provides that national and regional prosecutors investigate crimes, formulate charges, and prosecute cases, leaving judges the narrower function of weighing the merits of evidence presented to them. Three-judge panels form the court of first instance, the process is oral and adversarial, and trials are public. Court records, rulings, and findings were generally accessible to the public.

The law provides for the right to legal counsel, and the Public Defender's Office provides professional legal counsel. Defendants have a right of appeal. When requested by other human rights organizations or family members, the NGO Corporation for the Promotion and Defense of the Rights of the People and other lawyers working *pro bono* assisted detainees during interrogations and represented some persons charged with terrorist acts in court. Defendants enjoy a presumption of innocence.

If formal charges are filed in civilian courts against a member of the military (including the Carabineros), the military prosecutor can ask for jurisdiction, which the Supreme Court sometimes has granted. This was particularly significant in human rights cases from the period covered by the Amnesty Law, since military courts were more likely to grant amnesty without a full investigation. Military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Persons accused of terrorist acts and persons arrested during demonstrations for assaulting a police officer also were brought before military tribunals.

Civilians prosecuted in military courts have the same legal protections as those prosecuted in civilian courts. They are entitled to counsel, the charges are public, the sentencing guidelines are the same (with the exception that the death penalty can be imposed in a military court but not in a civilian court), and the Supreme Court ultimately may hear appeals. A military prosecutor formulates charges and conducts the investigation, and the first instance of appeal is in a court martial, composed of two civilian and three military judges.

Political Prisoners.—There were no reports of political prisoners, although a number of inmates in Santiago's maximum-security prison charged with terrorist acts

following the return to democracy in 1989, claimed to be political prisoners. On July 19, the Senate approved a law allowing prisoners convicted on terrorism charges to apply for parole; 32 prisoners were eligible to apply under the provisions.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice, subject to significant legal restrictions.

Human rights groups and press associations criticized the existence and application of laws that prohibit insulting state institutions, including the presidency, the legislature, and judicial bodies, and that allow government officials to bring charges against journalists who insult or criticize them. Military courts may charge and try civilians for defamation of military personnel and for sedition, but their rulings may be appealed to the Supreme Court (see section 1.e.). Media and individuals can also be sued for libel. In August Congress passed a law abolishing the penalty for questioning the honor of public figures (*desacato*). In September constitutional reforms eliminated the offense of defamation against public persons and institutions but created penalties for invading the privacy of private persons and for “insults against personal honor.”

The law prohibits the surreptitious taping or recording of private conversations. In July authorities sentenced Sebastian Rodriguez to 3 years in prison and fined him \$5,770 (3 million pesos) for covertly videotaping a conversation with the judge in a high-profile pedophilia case and for attempted extortion. A producer and 3 journalists for ChileVision TV, which broadcast the footage in 2003, were given 61-day suspended sentences and fined \$2,885 (1.5 million pesos) for their role in the illegal taping. A senator’s July 2004 civil suit against the Channel 13 television station and several individuals for airing a television interview naming him in a sexual abuse case was dropped after Channel 13 issued a public apology and paid an undisclosed monetary settlement.

Two major media groups controlled most of the print media, which largely were independent of the government. The government was the majority owner of *La Nacion* newspaper but did not directly control its editorial content.

The broadcast media generally were independent of direct government influence. The Television Nacional network was state-owned but not under direct government control. It was self-financed through commercial advertising, editorially independent, and governed by a board of directors appointed by the president and approved by the senate.

The government-funded National Television Council (CNT) was responsible for ensuring that television programming “respects the moral and cultural values of the nation.” The CNT’s principal role was to regulate violence and sexual explicitness in both broadcast and cable television programming content. Films and other programs judged by the CNT to be excessively violent, have obscene language, or have sexually explicit scenes may be shown only after 10 p.m. when “family viewing hours” end. The CNT occasionally levied fines.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Although the law grants non-Catholic religions the right to have chaplains in public hospitals, prisons, and military units, some leaders of the country’s Protestant churches (accounting for more than 15 percent of the population) noted a reluctance to name Protestant chaplains in the armed forces and obstacles to pastoral visits at military hospitals.

While schools were required to offer religious education twice a week through middle school, enrollment in such classes was optional. The law mandates teaching the creed requested by parents, but enforcement was sometimes lax. Instruction was almost exclusively Roman Catholic.

In September the Supreme Court sustained a government challenge to the registration of the Unification Church as a religious nonprofit organization. The Unification Church continued to operate under a more limited private nonprofit status and planned to appeal the ruling to the Inter-American Court on Human Rights.

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination, including anti-Semitic acts, against members of religious groups. The Jewish community was estimated at approximately 21 thousand persons.

In June after a television program exposed the existence of neo-Nazi groups in Chile engaging in violence and criminal activities against immigrants, homosexuals, punk rockers, and anarchists, the Human Rights Committee of the Chamber of Deputies presented a bill to initiate a congressional investigation of such movements. At year's end the bill remained pending in the chamber.

A quarterly neo-Nazi tabloid newspaper published several editions in Temuco, a regional capital. Government authorities suspended publication in September, and no further editions were published.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and it was not used.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. In 2004, 568 persons residing in the country had recognized refugee status. The government also provided temporary protection to 85 individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol. These individuals were eligible for government-funded health care and education while awaiting adjudication of their cases, and were financially supported by the Office of the UN High Commissioner for Refugees (UNHCR) and other organizations. The government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In 2000 voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. Lagos is a member of the center-left Concertacion coalition, which includes his Socialist Party, the Christian Democratic Party, the Party for Democracy (of which Lagos is also a member), and the Radical Social Democrat Party. On December 11, Concertacion candidate Michelle Bachelet and Alianza opposition candidate Sebastian Pinera emerged as the top two vote-getters in the first round of the presidential elections. Since no candidate won more than 50 percent of the vote, Bachelet and Pinera moved on to a run-off election on January 15, 2006. Voters also elected 20 of the 38 Senators and all 120 members of the Chamber of Deputies on December 11 in elections generally considered free and fair. The new president and congress will assume office on March 11, 2006.

In August the congress ratified constitutional reforms abolishing provisions of the 1980 constitution (promulgated by the Pinochet regime) that limited the president's right to remove the commanders-in-chief of the three armed services and the Carabineros. The reforms also eliminated all nonelected senatorial posts effective March 2006, reduced the presidential term from six to four years with no consecutive terms, and made the National Security Council a purely advisory body. The new provisions went into effect in September.

There were 15 women in the 120-seat Chamber of Deputies, 2 women in the 48-seat Senate, and 3 women in the 16-member cabinet. Indigenous people have the legal right to participate freely in the political process, but relatively few were active. No members of the legislature acknowledged indigenous descent.

Government Corruption and Transparency.—Transparency International's annual corruption index recorded that the public perceived the country as relatively free of corruption. In June the Rancagua appeals court upheld the 2004 convictions of President Lagos' former undersecretary of transportation, three deputies from the government coalition, a former chief of cabinet from the Ministry of Public Works, and three businessmen for the crimes of bribery and subornation. A judicial inves-

tigation into allegations of Ministry of Public Works involvement in a broader kick-back scheme continued at year's end.

The Freedom of Information Act requires the government and its agencies to make all unclassified information about their activities available to the public. All government ministries and most public agencies have web pages. In May the NGO Participa released a study (based on 140 requests made by 7 individuals to ministries, municipalities, courts, and businesses providing public services) that found that national and local government agencies failed to respond to direct information requests in 69 percent of the cases. In the remaining cases, 14 percent of the responses were delayed, incomplete, or otherwise deficient.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, color, gender, age, nationality, national origin, or social status; while the government enforced this prohibition, such discrimination occurred in practice.

Women.—Domestic violence against women was a serious problem. A 2004 National Women's Service (SERNAM) study reported that 50 percent of married women have suffered spousal abuse; 34 percent reported having suffered physical violence and 16 percent psychological abuse. From 2002 to 2003, approximately 91 percent of the calls the Carabineros received regarding domestic violence related to aggression against women; Carabineros made arrests in 88 percent of their responses to domestic disputes.

The courts frequently order counseling for those involved in intrafamily violence. At year's end there were 17 government and 8 private centers to attend to victims of intrafamily violence. During the year, the SERNAM together with NGOs conducted courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities.

Rape, including spousal rape, is a criminal offense. Penalties for rape range from 5 to 15 years' imprisonment, and the government generally enforced the law. The age for statutory rape is 14. The law protects the privacy and safety of the person making the charge. In 2003 police received reports of 1,658 cases of rape. This number did not include other forms of sexual violence or abuse. Experts believed that a majority of rape cases went unreported.

The Ministry of Justice and the Investigations Police had several offices specifically to provide counseling and assistance in rape cases. A number of NGOs, such as La Morada Corporation for Women, provided counseling for rape victims.

Although adult prostitution is legal, bordellos are not. Several hundred women were registered as prostitutes with the national health service. Police often detained prostitutes (usually as a result of complaints by neighborhood residents) on charges of "offenses against morality," which could lead to a \$96 (50 thousand pesos) fine or five days in prison. Procurement or pandering is illegal and punishable under law. Inducing a minor (below age 18) to have sex in exchange for money or other favors is illegal. Punishment ranges from 3 to 20 years in prison and a \$1 thousand (520 thousand pesos) fine depending on the age of the minor. A police sexual crimes brigade was specifically charged with investigating and prosecuting pedophilia and child pornography cases.

Sexual harassment generally was recognized as a problem. In January congress passed a law against sexual harassment that provides protection and financial compensation to victims and penalizes harassment by employers or co-workers. The Labor Directorate reported that during the first 120 days of the new law, there were 95 complaints—87 made by women and 7 by men. Nearly half of the complaints were resolved quickly. In the most serious case, the accused was dismissed and fined \$1,150 (600 thousand pesos).

Women enjoy the same legal rights as men, including rights under family law and property law. The 2004 National Socio-Economic Survey suggested that the overall gender income gap remained at 30 percent. The income gap widened to 40 percent in managerial and professional positions. Women's workforce participation rose to 42 percent. The minimum wage for domestic workers, probably the largest single category of working women, was 75 percent of the standard minimum wage (see section 6.e.). The Labor Code provides specific benefits for pregnant workers and recent mothers, including a prohibition against dismissal; these benefits also apply to do-

mestic workers. Employers may not ask women to take pregnancy tests prior to hiring them, although the NGO La Morada received reports that the practice continued in some companies. The SERNAM is charged with protecting women's legal rights.

Children.—The government is committed to children's rights and welfare.

Education is universal, compulsory, and free from 1st through 12th grade. The latest government figures showed that in 2002 the median level of education was 10 years but varied regionally and across age groups. Three-quarters of the population had completed primary education (8 years), and 61 percent had secondary education (12 years).

The government provided basic health care through a public system, which included regular checkups, vaccinations, and emergency health care. Boys and girls had equal access to medical health care.

Violence against children was a problem. A 2003 study by the Citizens' Peace Foundation indicated that 60 percent of children surveyed between the ages of 7 and 10 had suffered some type of aggression against them or their belongings either inside or outside their homes.

In the first 6 months of 2003 (the most recent period for which statistics were available), the National Minors Service (SENAME) handled 28,642 cases of mistreated children; 4,158 of these cases involved sexual abuse or grave physical harm. SENAME, the Carabineros and PICH worked together and with schools and NGOs to identify children in abusive situations. Abused children and their families were provided counseling and other social services; efforts were made to keep families intact.

Child prostitution was a problem (see section 5, Trafficking).

Child labor in the informal economy was a problem (see section 6.d.).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to, from, and within the country.

The law criminalizes promoting the entry into or exit from the country of persons for the purpose of facilitating prostitution, with penalties of up to three years in prison and a fine of \$827 (430 thousand pesos). Sanctions are increased in a number of circumstances, including cases in which the victim is a minor; in which violence or intimidation is used; deception or abuse of authority is involved; the victim is related or under the tutelage of the perpetrator; or advantage is taken of a victim's circumstances or handicap. The law criminalizes the prostitution of children and corruption of minors, and the age of consent for sexual relations is 14. The law criminalizes obtaining sexual services from a minor in exchange for money or other considerations. Statistics on prosecutions and convictions were not available.

While there is no designated lead agency on trafficking in persons, the PICH sex crimes and cybercrime units worked with the Ministries of Justice and Interior to address trafficking. The government also cooperated with Interpol on law enforcement activities.

There were no current statistics available on the extent of trafficking. The head of the PICH Sexual Crimes Unit stated that there were no reported cases of trafficking in 2004. A credible 2003 study concluded that more than 3,700 children and adolescents—the vast majority of whom lived at home or with close relatives—had been the victims of commercial sexual exploitation in 2002–03.

Within the country victims reportedly were trafficked from rural areas to such urban areas as Santiago, Iquique, and Valparaiso. Law enforcement authorities stated that small numbers of victims were trafficked to neighboring countries (Argentina, Peru, and Bolivia), the United States, Europe, and Asia. Victims reportedly entered the country from Peru, Argentina, Colombia, and Bolivia, although it was difficult to distinguish trafficked persons from economic migrants.

Anecdotal reports suggested that young women were the primary targets for trafficking to other countries. Traffickers reportedly used newspaper advertisements for models and product promoters to lure girls, ages 11 to 17, into prostitution. Law enforcement agencies indicated that traffickers looking for children also targeted economically disadvantaged families, arguing to the parents that they were giving the child an opportunity for a better life. Men from less-affluent rural areas may be recruited into abusive labor situations in deep-sea fishing or ranching operations.

Cross-border trafficking was limited. There was no information available regarding traffickers or the methods they used to recruit or transport victims.

SENAME works with its 75 local offices and with NGOs to ensure that minors involved in possible trafficking situations were not returned to abusive or high-risk situations. The Ministry of Labor performed regular worksite inspections, responded to specific complaints, and maintained offices in each region and throughout the

metropolitan area to identify potentially abusive situations and inform workers of their legal rights.

Many of the government services provided for victims of sexual violence in general, such as safe houses and counseling, are also available to trafficking victims. The government worked closely with other countries to identify and safely return potential trafficking victims.

SENAME, the ministries of government and health, and other government agencies formed the Protect Network, which conducted general public awareness and education campaigns to prevent sexual violence and abuse, including the commercial sexual exploitation of minors. Nearly 80 percent of SENAME's budget supported NGO programs, particularly those that worked with street children. Organizations such as Mother's Centers and RAICES also offered support programs to prevent trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities, but such persons still suffered some forms of de facto discrimination. The law mandates access to buildings for persons with disabilities, but a Ministry of Housing and Urban Planning study based on a 2002–03 census showed that 70 percent of the buildings in the country designated as public or multi-use failed to meet that standard. An improved public transportation system in Santiago provided wheelchair access on major “trunk” routes. Some local “feeder” routes also provided low-rise buses with access ramps. Subway lines in the Santiago metropolitan area provided limited access for persons with disabilities. Public transport outside of Santiago was problematic.

Indigenous People.—The 2002 census recorded approximately 692 thousand self-identified people of indigenous origin (4.6 percent of the total population). The Mapuches, from the south, accounted for approximately 85 percent of this number. There were also small populations of Aymara, Atacamenno, Rapa Nui, and Kawaskhar in other parts of the country.

The law gives indigenous people a voice in decisions affecting their lands, cultures, and traditions and provides for eventual bilingual education in schools with indigenous populations. Approximately one-half the population that identifies itself as indigenous remained separated from the rest of society, largely due to historical, cultural, educational, and geographical factors. Both internal factors and governmental policies limited the ability of indigenous people to participate in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous people also experienced some societal discrimination and reported incidents in which they were attacked and harassed. A 2003 Ministry of Planning survey reported that indigenous people earned 26 percent less than non-indigenous citizens for similar work.

The National Corporation for Indigenous Development, which included directly elected indigenous representatives, advised and directed government programs to assist the economic development of indigenous people.

There were land occupations and other acts of violence by Mapuche groups, and the authorities tried many of those charged with such attacks under antiterrorist legislation (see section 1.c.). A 2004 Human Rights Watch report criticized the government for prejudice in applying the Anti-Terrorist Law to Mapuche activists. A 2003 report by the UN Special Rapporteur for the Human Rights and Fundamental Liberties of Indigenous People described the economic and social marginalization of indigenous communities and the criminalization of indigenous social protest movements by means of the application of the Anti-Terrorist Law. The rapporteur recommended the judicial review of cases affecting Mapuche leaders, but the government did not act on the recommendations.

Section 6. Worker Rights

a. The Right of Association.—Workers have the right to form and join unions without prior authorization, and approximately 10 percent of the total work force (estimated at 5.9 million) was unionized in over 16 thousand unions. Police and military personnel may not organize collectively. Members of unions were free to withdraw from union membership. The law prohibits closed union shops.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. Temporary workers—those in agriculture and construction, as well as port workers and entertainers—may form unions, but their right to collective bargaining is limited. Intercompany unions were permitted to bargain collectively only if the individual employers agreed to negotiate under such terms. Collective bargaining in the agricultural sector remained dependent on employers agreeing to negotiate.

While employees in the private sector have the right to strike, the government regulated this right, and there were some restrictions. The law permits replacement of striking workers, subject to the payment of a cash penalty that is distributed among the strikers.

Public employees do not enjoy the right to strike, although government teachers, municipal and health workers, and other government employees have gone on strike in the past. The law proscribes employees of 30 companies—largely providers of such essential services as water and electricity—from striking. It stipulates compulsory arbitration to resolve disputes in these companies. There was no provision for compulsory arbitration in the private sector. Strikes by agricultural workers during the harvest season were prohibited. Employers must show cause and pay severance benefits if they dismiss striking workers.

Labor laws applied in the duty free zones; there are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. The Labor Code does not specifically prohibit forced or compulsory labor by children, and child prostitution was a problem (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law restricts child labor, but it was a problem in the informal economy. The law provides that children between the ages of 15 and 18 may work with the express permission of their parents or guardians, but they must attend school. Fifteen-year-olds only may perform light work not requiring hard physical labor or constituting a threat to health and childhood development. Additional provisions in the law protect workers under age 18 by restricting the types of work open to them (for example, they may not work in nightclubs) and by establishing special conditions of work (they may not work more than 8 hours in a day). The minimum age to work in an underground mine is 21; special regulations govern the ability of 18- to 21-year-olds to work at other types of mining sites.

Ministry of Labor inspectors enforced these regulations, and while compliance was good in the formal economy, many children were employed in the informal economy. During the year the Ministry of Labor recorded 36 cases involving reported violations of child labor laws in the informal economy, 33 of which were under investigation at year's end. There were reports that children were trafficked (see section 5). A 2004 survey by the Ministry of Labor and the International Labor Organization reported that in 2003 approximately 200 thousand children between the ages of 5 and 17 worked; 3 percent of all children and adolescents worked under unacceptable conditions. Among working children, those between the ages of 5 and 14 worked an average of 18.5 hours a week, and adolescents worked an average of 39.5 hours.

In August SENAME released a report indicating that, as of September 2004, there were 1,123 cases of children and adolescents involved in the worst forms of child labor. Of this number, approximately 68 percent were boys; 75 percent were 15 years or older; and 66 percent did not attend school. Thirty-seven percent of the individuals were involved in hazardous activities such as mining; 24 percent in commercial sexual exploitation; 21 percent in dangerous jobs such as working with chemicals or toxins; and 14 percent in illegal activities.

The government devoted adequate resources and oversight to child labor policies. SENAME, in coordination with labor inspectors, has a system for identifying and assisting children in abusive or dangerous situations. The Ministry of Labor convened regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor. SENAME operated rehabilitation and reinsertion programs in 75 municipalities for exploited child workers. SENAME also implemented public educational programs to create awareness about child labor and its worst forms.

e. Acceptable Conditions of Work.—The minimum wage is set by law and is subject to adjustment annually. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. The minimum wage at year's end was approximately \$245 a month (127,500 pesos), a 1 percent nominal increase from the previous year. This wage was designed to serve as the starting wage for an unskilled single adult worker entering the labor force and did not provide a worker and family with a decent standard of living. The minimum wage for domestic servants was 75 percent of that for other occupations (see section 5). The Labor Directorate, under the Ministry of Labor, was responsible for effectively enforcing minimum wage and other labor laws and regulations.

The law sets the legal workweek at 6 days or 45 hours. The maximum workday length is 10 hours (including 2 hours of overtime pay), but positions such as caretakers and domestic servants are exempt. All workers enjoy at least one 24-hour

rest period during the workweek, except for workers at high altitudes who may exchange a work-free day each week for several consecutive work-free days every two weeks. The law establishes fines for employers who compel workers to work in excess of 10 hours a day or do not provide adequate rest days. The government effectively enforced these standards.

The law establishes occupational safety and health standards, which were administered by the Ministries of Health and Labor and effectively enforced. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. Workers who remove themselves from dangerous situations have their employment protected by law if labor inspectors from the Labor Directorate and occupational safety and health inspectors from the Chilean Safety Association determine conditions that endanger their health or safety exist. Authorities effectively enforced the standards and frequently imposed fines for workplace violations.

COLOMBIA

Colombia is a constitutional, multiparty democracy with a population of approximately 44 million. In 2002 independent candidate Alvaro Uribe won the presidency in elections that were considered generally free and fair. The 41-year internal armed conflict continued between the government and Foreign Terrorist Organizations, particularly the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and certain blocs of the United Self-Defense Forces of Colombia (AUC) that were not involved in demobilization negotiations with the government. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted in violation of state policy.

Although serious problems remained, the government's respect for human rights continued to improve. All actors in the internal armed conflict committed human rights violations; the majority of violations were committed by illegal armed groups. There were improvements in certain human rights categories related to the government's concentrated military offensive and ongoing demobilization negotiations with the AUC. The following human rights categories and societal problems were reported:

- unlawful and extrajudicial killings
- insubordinate military collaboration with paramilitary groups
- torture and mistreatment of detainees
- overcrowded, underfunded, insecure prisons
- arbitrary arrest
- high number of pretrial detainees
- pretrial detainees held with convicted prisoners
- impunity
- an inefficient, significantly overburdened judiciary
- harassment and intimidation of journalists
- journalistic self-censorship
- significant internal displacement
- unhygienic conditions at internal displacement camps, with limited access to health care, education, or employment
- corruption
- harassment of human rights groups
- violence against women that was exacerbated by the conflict and displacement, including rape
- child abuse and child prostitution
- trafficking in women and children for the purpose of sexual exploitation
- societal discrimination against women, indigenous persons, and minorities
- illegal child labor

The government took steps to improve the human rights situation. Government statistics noted that killings decreased by 10 percent, terrorist massacres by nearly 4 percent, killings of trade union leaders by 67 percent, and forced displacements

by more than 27 percent. According to authorities, the number of homicides during the year was the lowest in 18 years. Perceptions of corruption improved slightly.

Despite a unilateral cease-fire declared by the AUC in 2002 and ongoing demobilization negotiations with the government, paramilitaries continued to violate the cease-fire, recruit soldiers, and commit human rights abuses. The following violations by paramilitaries were reported during the year: political killings and kidnappings; forced disappearances; torture; interference with personal privacy; forced displacement; suborning and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; attacks against human rights workers, journalists, and labor union members; recruitment and employment of child soldiers; and harassment, intimidation, and killings of teachers and union leaders.

The FARC and ELN committed the following human rights violations: unlawful and political killings; kidnappings; forced disappearances; killings of off-duty members of the public security forces; killings of local officials; massive forced displacements; suborning and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; widespread recruitment of child soldiers; attacks against human rights activists; harassment, intimidation, and killings of teachers and union leaders; and use of female conscripts as sex slaves.

Representatives of the government, the ELN, civil society, and international observers met in Cuba starting on December 17 to explore the possibility of peace talks.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Political and unlawful killings remained an extremely serious problem, and there were periodic reports that members of the security forces committed extrajudicial killings.

The Jesuit-founded Center for Popular Research and Education (CINEP), a local human rights nongovernmental organization (NGO), claimed there were at least 298 political and extrajudicial killings, committed by all actors, during the first 6 months of the year. Some NGOs, such as CINEP, attributed all reports of paramilitary human rights violations directly to the government and called paramilitary homicides "extrajudicial killings." The government's Presidential Program for Human Rights reported that 131 persons died in 26 massacres (killings of 4 or more persons as defined by the government) committed by illegal armed groups through June, a 14 percent decrease compared with 2004.

CINEP reported that state security forces were responsible for 94 extrajudicial killings during the first 6 months of the year. For example in January suspected army troops from the 17th Brigade assassinated Pedro Murillo, a 50-year-old unarmed resident of Jiguamiando, Choco Department.

In conformity with the law, incidents cited by CINEP where a complaint was filed were being investigated by military or civilian authorities at year's end. Civilian courts tried a number of military personnel accused of human rights violations (see section 1.e.). Investigations of past killings proceeded, albeit slowly.

Security forces were responsible for unlawful killings.

In February armed assailants killed and dismembered eight civilians, including three children, near the community of San Jose de Apartado. Community members claimed the attack was carried out by the military. Military and government authorities denied army responsibility and blamed the FARC. Community members sporadically cooperated with a few offices involved with the government investigation, demanding the government investigate approximately 150 other killings and disappearances in the community during the past 8 years before they would cooperate fully. Amnesty International (AI) claimed that a March 20 statement by President Uribe, which accused some San Jose de Apartado community leaders of being FARC auxiliaries who sought to obstruct justice, put members of the community at risk of further paramilitary attacks. The community's limited cooperation slowed the investigation by the prosecutor general's Human Rights Unit, which continued at year's end.

In February CINEP stated that members of the army's Battalion 21 Vargas allegedly killed two peasants in Castillo, Meta Department and dressed them in military clothes with weapons to claim to the media that they were members of the FARC's 26th Front.

Also in February CINEP reported that Leonel Guerra Garcia and an unidentified male allegedly were executed by troops from the army's Santander Battalion in

Aguachica, Cesar Department. The battalion claimed the men were members of the AUC.

In March CINEP alleged that troops from the army's Second Division executed three people and injured seven others at a police checkpoint in Cocito Macagua, Arauca Department. The 10 persons were traveling in 2 trucks on their way to a sporting event.

In September the press reported that police shot and killed 21-year-old student Jhonny Silva Aranguren, who had been leaving a peaceful student protest at Valle University. The regional human rights ombudsman's office, the prosecutor general's office, and the police opened investigations into Silva's death.

In April the Supreme Military Tribunal, an appellate court for all service-related crimes, exonerated army members involved in the March 2004 killings of seven policemen and four civilians in Guaitarilla, Narino Department. The prosecutor general's office continued investigating allegations that the soldiers tampered with evidence in the case and that the police and civilians killed were in the area to pick up a shipment of cocaine. The investigator general's office closed its investigation.

On January 4, the prosecutor general's office turned over its investigation into the August 2004 killings of two policemen by members of the army's antikidnapping unit (GAULA) in a "friendly fire" incident in Floridablanca, Santander Department to the 34th Military Penal Court.

Security forces allegedly killed civilians during the internal armed conflict (see section 1.g.).

Landmines were used by both government and non-government actors (see section 1.g.). The government took steps to eliminate the 34 government-controlled minefields in compliance with its Ottawa treaty agreements.

There continued to be credible reports that some members of the security forces cooperated with illegal paramilitaries in violation of orders from government leaders, including the president and the military high command (see section 1.g.). Such collaboration often facilitated unlawful killings and sometimes may have involved direct participation in paramilitary atrocities.

Impunity for military personnel who collaborated with members of paramilitary groups remained a problem (see section 1.g.).

Paramilitaries committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or lacking a strong government presence. Paramilitaries killed journalists, local politicians, human rights activists, indigenous leaders, labor leaders, and others who threatened to interfere with their criminal activities, showed leftist sympathies, or were suspected of collaboration with the FARC (see section 1.g.).

Guerrillas, particularly the FARC, committed unlawful killings. Guerrillas killed journalists, religious leaders, candidates for public office, elected officials and politicians, alleged paramilitary collaborators, and members of the security forces (see section 1.g.).

Other terrorist groups also carried out attacks (see section 1.g.).

b. Disappearance.—Forced disappearances, many of them politically motivated, continued to occur. The law specifically defines forced disappearance as a crime. CINEP reported 59 cases of forced disappearance during the first 6 months of the year, an increase of 7 percent compared with the same period in 2004. The UN Working Group on Enforced or Involuntary Disappearances reported in July that there had been at least 1,161 forced disappearances since 1981, 897 of which remained unresolved.

There were no new developments in the investigation of three members of the National Police charged with the April 2004 forced disappearance and subsequent death of Ruben Suarez.

Although the number of kidnappings continued to decline, kidnapping, both for ransom and for political reasons, remained a serious problem. According to the government's Presidential Program for Human Rights, there were 800 kidnappings during the year, a reduction of 44 percent compared with 2004. The Ministry of Defense reported 339 kidnappings for extortion (defined as kidnapping to obtain a benefit, utility, act or omission) through November, a 51 percent decrease compared with the same period in 2004.

GAULAs and other elements of the security forces freed 49 hostages during the first 8 months of the year. However, the NGO Free Country Foundation reported that at least 18 persons died in captivity through August.

Kidnapping continued to be an unambiguous, standing policy for paramilitaries, the FARC, and the ELN. There were numerous reports that guerrillas killed kidnapping victims (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, there were reports that the police, military, and prison guards sometimes mistreated and tortured detainees. Members of the military and police accused of torture are tried in civilian, rather than military, courts (see section 1.e.). CINEP asserted that, as of June, security forces were involved in 25 incidents of torture, a 67 percent decrease compared with the first 6 months of 2004. CINEP also reported that during the first 6 months of the year there were 97 victims of torture: 5 victims resulting from abuse of authority and social intolerance by “direct and indirect” state agents; 75 victims resulting from political persecution by direct and indirect state agents; and 17 victims resulting from political persecution or social intolerance where the perpetrator was unknown. Of these cases, 66 victims implicated the armed forces.

For example CINEP reported that in January troops accredited to the army’s Mobile Brigade arbitrarily detained and tortured Ferney Vargas Hernandez in Cartagena de Chaira, Caqueta Department. The troops accused Vargas of being a guerrilla sympathizer.

In February authorities indicted three police officers for torturing and killing Edison Watsein in Medellin, Antioquia Department in 2002.

In October the Inter-American Court of Human Rights found a police officer and former soldier guilty of torturing Wilson Gutierrez Soler in 1994. The court ruled that the government pay approximately \$400 thousand (900 million pesos) to Gutierrez and his family, as well as find the perpetrators of the crime, reform the country’s detention centers, and set up training programs on the investigation and documentation of torture.

CINEP reported that paramilitaries were responsible for at least 25 cases of torture as of September. For example, on January 16, members of a paramilitary group in the municipality of Gigante, Huila Department tortured community leader Israel Guzman.

Also in January paramilitaries of the AUC under control of an individual with the alias “Giovanny” detained, tortured, and sexually abused Yeni Zurley Toro Bonilla, the local coordinator for the NGO Fundepaz in Charco, Narino Department.

In April AUC paramilitaries, apparently with the knowledge and acquiescence of the national police, arbitrarily detained, tortured, and executed 12 minors in Buenaventura, Valle de Cauca Department. The mutilated bodies of the victims were found floating in the ocean in an area known to be used by the AUC for torture and execution. The victims were all relatives of leaders of the Yurumanguí community which was displaced by AUC paramilitaries.

CINEP did not report any cases of torture by guerrillas as of September. The Human Rights Unit of the prosecutor general’s office reported it was investigating 14 cases of torture, of which 4 allegedly involved guerrillas and 10 involved the AUC.

Prison and Detention Center Conditions.—The National Prison Institute (INPEC) runs the country’s 139 national prisons and is responsible for inspecting municipal jails. Although part of the Ministry of Interior and Justice, INPEC has an independent budget and administrative decentralization. With the exception of new facilities, prison conditions were poor, particularly for prisoners without significant outside support.

Many of INPEC’s 8,757 prison guards and administrative staff were poorly trained or corrupt. Overcrowding, insecurity, corruption, and an insufficient budget continued to be serious problems. As of March there were more than 69 thousand prisoners held in spaces designed to accommodate fewer than 50 thousand, an overcrowding rate of nearly 40 percent. In 13 institutions overcrowding exceeded 100 percent, and in Bucaramanga’s penitentiary, where more than 2 thousand prisoners lived in a space designed for 664, the rate surpassed 200 percent. INPEC representatives estimated that nine thousand guards would be needed to provide adequate security. The Committee in Solidarity with Political Prisoners (CSPP) noted a decrease in corruption resulting from improved training, increased supervision, and more accountability for prison guards.

Budget problems affected prisons in many ways. At Combita Prison lack of money to pay sanitation fees led to water rationing. During the year INPEC spent approximately \$2 (4,990 pesos) per day on each inmate for food. Private sources continued to supplement many prisoners’ food. CSPP reported that the doctor to patient ratio was as low as 1 to 1,200 in some institutions and noted that INPEC failed to negotiate a nationwide healthcare contract for all its facilities.

Authorities sometimes failed to prevent deadly violence among inmates. INPEC reported that from January to June, there were 20 violent deaths among inmates related to fighting and riots. In March a fight between inmates at Villahermosa jail in Cali resulted in two deaths. During this period there were 56 escapes, including 44 because of security failures and 1 with the aid of outside assistance.

Inmates typically rioted to force changes in administrative policies. From January to June there were 28 riots at various institutions motivated principally by inmates' attempts to force changes in administrative policies, including acts of civil disobedience and hunger strikes motivated by poor water quality, mistreatment by guards, and changes in medical assistance. For example in April inmates at Modelo Prison in Barranquilla, Magdalena Department staged a protest that evolved into a riot. Prisoners protested the poor quality of food and overcrowding. The prison was built to hold 493 inmates but held 781. The regional human rights ombudsman met with the inmates to discuss their situation. The prosecutor general's office continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally.

INPEC officials and CSPP agreed that prison violence was on the decline. Enforcement of a law prohibiting the circulation of cash within prisons improved security and decreased bribery. As a result extortion, theft of inmate property, and prostitution decreased. INPEC attributed some of the decrease in violence to heightened professionalism among prison guards.

Pretrial detainees were held with convicted prisoners.

The government permitted independent monitoring of prison conditions by local and international human rights groups, and such monitoring occurred during the year. The FARC and ELN continued to deny the International Committee of the Red Cross (ICRC) access to police and military hostages (see section 1.g.).

d. Arbitrary Arrest or Detention.—Although the law prohibits arbitrary arrest and detention, there were allegations that authorities detained citizens arbitrarily.

Role of the Police and Security Apparatus.—The National Police are responsible for internal law enforcement and are under the jurisdiction of the Ministry of Defense. Law enforcement duties are shared with the Department of Administrative Security (DAS) and the prosecutor general's Corps of Technical Investigators (CTI). During the year the Human Rights Unit of the prosecutor general's office had issued preventive detention orders for 58 members of the armed forces for human rights violations or paramilitary collaboration. However, impunity continued to be widespread because of a lack of resources for investigations, lack of protection for witnesses and investigators, lack of coordination between government entities, and, in some cases, obstruction of justice. The Ministry of Defense relieved 458 members of the armed forces of duty for inefficiency, unethical conduct, corruption, and reasonable doubt regarding possible violations of human rights. As part of its strategic goal of achieving greater efficiency, the Ministry of Defense increased scrutiny of misuse of authority and resources to uncover cases of corruption.

Arrest and Detention.—Police apprehended suspects with warrants issued by prosecutors based on probable cause. However, a warrant is not required to arrest criminals caught in the act or fleeing the scene of a crime. In July the Constitutional Court ruled that authorities require solid proof that a crime had been committed before making arrests without a warrant. Members of the armed forces detained members of illegal armed groups captured in combat but were not authorized to execute arrest warrants.

Law enforcement authorities must promptly inform suspects of the reasons for the arrest and bring suspects before a senior prosecutor within 36 hours of detention. Prosecutors must rule on the legality of detentions within 72 hours. These requirements were enforced in practice. In the case of most felonies, detention prior to the filing of formal charges cannot exceed 180 days, after which a suspect must be released. In cases of crimes deemed particularly serious, such as homicide or terrorism, authorities are allowed up to 360 days to file formal charges before a suspect must be released. Habeas corpus is available to address cases of alleged arbitrary detention.

While Individuals accused of lesser or unintentional crimes have access to bail, it generally is not available for serious crimes such as murder, rebellion, or narcotics trafficking. Suspects have the right to prompt access to counsel of their choice, and public defenders from the office of the human rights ombudsman assist indigent defendants.

In April the UN High Commissioner for Refugees (UNHCR) claimed that in its fight against paramilitary groups, the government and the prosecutor general's office continued its systemic practice of arbitrary searches and arrests without sufficient evidence. Prominent human rights NGOs also complained that the government arbitrarily detained hundreds of persons, particularly social leaders, labor activists, and human rights defenders. CINEP reported that security forces arbitrarily detained 321 persons during the first 6 months of the year. Many of these detentions took place in high conflict areas where the military was involved in active hostilities against terrorist insurgents.

In May the DAS issued arrest warrants for 200 indigenous members of the Paez tribe for collaborating with the FARC to attack the town of Toribio near Popayan, Cauca Department. Of that number authorities arrested 21 persons and later charged 11 of them. A prosecutor in Popayan said the detentions were arbitrary because the information leading to their arrest was provided by paramilitary informants. The prosecutor also stated that the detainees were sincere in their denials.

In August the Regional Indigenous Council of Cauca (CRIC) denounced the detention of 12 indigenous community members in Jambalo, Cauca Department. According to CRIC no one had been informed of the reasons for their detention.

The government and prominent local NGOs frequently disagreed about how to define an "arbitrary" detention. While the government characterized detentions based on compliance with legal formalities, NGOs typically applied other criteria, such as: arrests based on tips from informants about people allegedly linked to guerrilla activities; detentions by members of the security forces without a judicial order; detentions allegedly based on administrative authority; detentions during military operations; large-scale detentions; detentions as a mechanism for political persecution; and detentions of people while they were "exercising their fundamental rights."

The government did not hold political detainees. Paramilitaries and guerrillas, particularly the FARC and the ELN, continued to take hostages for ransom. The FARC and ELN also kidnapped politicians, prominent citizens, and members of the security forces to use as pawns in a prisoner exchange (see section 1.g.).

Due to overcrowding convicted individuals in some cases remained at police stations for up to seven months before being transferred to a prison. Under the new accusatory justice system, individuals would be detained at police stations for a maximum of 36 hours before either being released or moved to a permanent detention facility.

According to INPEC, as of December there were 28,148 pretrial detainees (nearly 41 percent of prison inmates) held in overcrowded police jails. Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees difficult. Trial delays were caused by large numbers of detainees, financial constraints, and staff shortages.

e. Denial of Fair Public Trial.—While the law provides for an independent judiciary, the judicial system was overburdened, inefficient, and hindered by the suborning and intimidation of judges, prosecutors, and witnesses. Impunity remained a serious problem. According to the Supreme Council of the Judiciary, a perpetrator was punished in less than 1 percent of crimes. The administrative chamber of the Supreme Council of the Judiciary (CSJ) reported that the civilian judiciary suffered from a backlog of cases to be processed. These backlogs led to large numbers of pretrial detainees (see section 1.d.).

Judicial authorities frequently were subjected to threats and acts of violence. According to the National Association of Judicial Branch Employees and the Corporation Fund of Solidarity with Colombian Judges, 14 judicial branch employees were killed and 53 received threats against their lives. One employee was kidnapped, one was "disappeared," and four left the country in self-imposed exile because of death threats. Some judges and prosecutors assigned to small towns worked out of departmental capitals because of security concerns. Witnesses were even more vulnerable to intimidation and many refused to testify.

There were reports that judicial workers were killed during the year. For example during a March investigation into the February San Jose de Apartado massacre, a commission of investigators from the offices of the prosecutor general, the human rights ombudsman, and the inspector general were attacked with mortar shells and machine gun fire, killing the police escort accompanying the commission.

In April suspected paramilitaries killed a police captain and prosecutor general's office investigator Susana Castro. The pair was conducting an investigation in La Hormiga, Putumayo Department.

In September five members of a judicial commission conducting an investigation in Tumaco, Narino Department disappeared after members of the FARC attacked and sunk their river transport boat. The bodies of a prosecutor and a technical investigator on the commission were found three days later.

There were no new developments in the investigations of two cases from 2004 involving judicial workers: the August killing by unknown assailants of former superior court judge and La Guajira Department magistrate Ronaldo David Redondo and the November killing of state attorney Mario Canal.

The civilian justice system is composed of four functional jurisdictions: civil, administrative, constitutional, and special. The civil jurisdiction is the largest and handles all criminal, civil, labor, agrarian, and domestic cases involving nonmilitary

personnel. The Supreme Court of Justice is the highest court within the civil jurisdiction and serves as its final court of appeal.

The administrative jurisdiction handles administrative actions such as decrees and resolutions, which may be challenged in the administrative jurisdiction on constitutional or other grounds. The Council of State is the highest court in the administrative jurisdiction and serves as the final court of appeal for complaints arising from administrative acts.

The Constitutional Court is the sole judicial authority on the constitutionality of laws, presidential decrees, and constitutional reforms. The Constitutional Court also may issue advisory opinions on the constitutionality of bills not yet signed into law and acts within its discretion to review the decisions of lower courts on *tutelas*, or writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of the judicial process.

The special jurisdiction of the civilian justice system consists of the Justices of the Peace program and the indigenous jurisdiction. The CSJ is responsible for the administration and discipline of the civilian justice system.

The Supreme Court, the Council of State, the Constitutional Court, and the CSJ are coequal supreme judicial bodies that sometimes issued conflicting rulings and frequently disagreed about jurisdictional responsibilities.

The Office of the Prosecutor General is responsible for investigations and prosecutions of criminal offenses. Its Human Rights Unit, which included 15 satellite offices in 7 regional capitals, specialized in investigating human rights crimes. The unit's 48 prosecutors were handling 2,320 cases at year's end.

An internal affairs unit was created in the prosecutor general's office. The prosecutor general's office fired 31 employees for corruption based on the work of this unit.

The office of the inspector general, also known as the public ministry, investigates allegations of misconduct by public employees, including members of the state security forces. The inspector general's office referred all cases of human rights violations received during the year to the human rights unit of the prosecutor general's office.

Through August the office of the inspector general charged 22 members of the armed forces with human rights offenses, which were referred to the prosecutor general for criminal investigation. According to the Ministry of Defense, during the year authorities sentenced several members of the army who were found to be guilty of the 1994 murder of Elcias Munoz and 6 other people in Neiva, Huila Department, to prison terms ranging from between 16 and 40 years. In addition authorities found 7 other members of the army guilty of murders, massacres, and kidnappings and sentenced them to prison terms ranging between 20 and 38 years. For example Lieutenant Sandro Quintero Carreno was found guilty for his role in the 1998 La Cabuya massacre and sentenced to 38 years in prison.

Trial Procedures.—On January 1, the country began implementation of a new accusatory style criminal procedure code. The code replaced the "Napoleonic" system whereby a person was detained pending an investigation that involved the formal acceptance of evidence, without an actual trial. The percentage of convictions under the old system was extremely low, and criminal cases typically lasted three to five years.

Under the new code, a prosecutor files a formal charge with a judge and the accused is notified of the charges. Trials are public and juries are used. Defendants have the right to be present and consult with an attorney; the right to confront witnesses; and the right to present evidence. The accused is presumed innocent and has a right of appeal.

The new code was being implemented gradually over a 4-year period. During the year authorities introduced the code in the departments of Armenia, Bogota, Manizales, and Pereira.

The military justice system consists of 44 military courts and the Supreme Military Tribunal, which serves as the court of appeal for all cases tried in military courts. The civilian Supreme Court of Justice serves as a second court of appeal for cases in which sentences of six or more years in prison are imposed.

The military judiciary may investigate and prosecute active duty military and police personnel for crimes "related to acts of military service." The Military Penal Code specifically defines torture, genocide, massacre, and forced disappearance as crimes unrelated to military service. All serious human rights violations are considered unrelated to military service and are handled by the civilian justice system. The Military Penal Code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, even for service-related acts committed before their retirement. The Military Penal Code denies commanders the power to impose military justice discipline on their subordinates and

extends legal protection to service members who refuse to obey orders to commit human rights abuses.

Military judges preside over courts-martial without juries. Counsel may represent the accused and call witnesses, but the majority of fact-finding takes place during the investigative stage. Military trial judges issue rulings within eight days of a court-martial hearing. Representatives of the civilian inspector general's office are required to be present at courts-martial.

Criminal procedure within the military justice system includes elements of the inquisitorial and accusatorial systems. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel. A Constitutional Court ruling forbids military attorneys from undertaking defense counsel duties. Defendants must retain counsel at their own expense or rely on defenders paid by a special military officer's fund.

By year's end authorities began implementing reforms to the military justice system to halt the growth of administrative cases, establish a forensic investigative corps, transition to an accusatorial system, and establish a military defense corps.

In March the prosecutor general's office suspended Corporal Juan De los Rios and Sergeant Oscar Chia for injuring two civilians while shooting at cars in 2001.

In April an inspector general proceeding and the military justice system found members of the army innocent of wrongdoing in a 2004 police-army friendly fire incident in Guaitarilla.

Other military-related cases involving civilians, such as the five civilians killed in April 2004 in Cajamarca and the three unionists killed in Saravena, Arauca in August 2004, remained in civilian criminal courts.

Political Prisoners.—The government did not hold political prisoners, although there were 4,721 prisoners accused of rebellion or aiding and abetting insurgency. The government provided the ICRC access to these prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and while the government generally respected these prohibitions in practice, there were exceptions.

The law requires government authorities to obtain a warrant signed by a senior prosecutor to enter a private home without the owner's consent unless the suspect has been caught in hot pursuit. The Ministry of Defense continued training public security forces in legal search procedures that comply with constitutional requirements and human rights standards.

Government authorities generally need a judicial order to intercept mail or monitor telephone conversations, even in prisons. However, government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization; such evidence could not be used in court.

Despite being dismissed in November 2004 for illegally wiretapping the telephone lines of more than two thousand citizens and NGOs between 1997 and 2000, Colonel Mauricio Santoyo continued to report to work as the chief of security for President Uribe.

The government continued to use a network of civilian informants to identify terrorist activists and sympathizers. Some national and international human rights groups criticized the network as subject to abuse and a threat to privacy and other civil liberties. The government maintained that the network was voluntary and established to facilitate citizens' right to self-defense.

Although the government does not prohibit membership in most political organizations, membership in private organizations that espoused or carried out acts of violence, such as the AUC, FARC, and ELN, is illegal.

Paramilitaries and guerrillas routinely interfered arbitrarily with the right to privacy. Both groups forcibly entered private homes, monitored private communications, engaged in forced displacement (see section 1.g.) and conscription, and punished family members for alleged wrongdoing. The FARC, which employed large numbers of female combatants, prohibited pregnancies among its troops and, according to military accounts from deserters, executed women who became pregnant.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—The country's 41-year internal armed conflict, involving government forces, a right-wing paramilitary movement, and two leftist insurgent groups, continued. The conflict and the narcotics trafficking that both fueled and prospered from it were the central causes of violations of human rights and international humanitarian law.

The government continued demobilization negotiations with most major blocs of the AUC, but continued to confront militarily any paramilitary group not involved in negotiations. According to government statistics, approximately 13 thousand of the estimated 20 thousand paramilitaries demobilized during the last 2 years. The

Organization of American States continued to verify all stages of demobilization and reincorporation of ex-combatants into society. In July President Uribe signed the Justice and Peace Law, which would provide for the legal processing of demobilized paramilitary combatants. The government issued an implementing decree on December 30 and the law was expected to be implemented in early 2006. Critics, including domestic and international human rights groups, expressed concerns that the law does not take into account sufficiently international standards on the principles of truth, justice, and reparations.

The 12,000-member FARC and the 2,000-member ELN declined in numerical strength during the year in part because of pressure from the military, which has caused significant numbers of guerrilla casualties that, according to the Ministry of Defense, led to approximately 5 thousand guerrilla desertions during the year. In many areas of the country, the two guerrilla groups worked together to combat government forces or paramilitaries.

Members of security forces committed human rights abuses related to the internal armed conflict. CINEP reported that on May 4, air force units bombarded and indiscriminately sprayed machine gun fire in the communities of El Aguila, San Jose, San Jeronimo, and El Queso near Buenaventura, Valle de Cauca Department. At the same time CINEP alleged that marine infantry and army troops entered the areas of San Jeronimo and San Jose. As a result of the incursion one resident died, several were injured, and two were detained. Troops searched houses illegally, stole belongings and money, and broke down several doors to residences.

The Office of the Prosecutor General and the Office of Military Penal Justice initiated an investigation of two soldiers who shot and killed two suspected paramilitaries in June. The families of the victims denied they were paramilitaries, and the investigation continued at year's end.

In November a grenade allegedly from the army's 17th Brigade killed San Jose de Apartado community leader Arlen Salas David during combat between the army and the FARC. The Ministry of Defense and the Office of the Prosecutor General ordered investigations, which were ongoing at year's end.

In June the prosecutor general's office ordered the arrest and detention of six soldiers from the Sixth Brigade involved in the April 2004 killing of a family of five in Cajamarca, Tolima Department, during a military operation against the FARC. The investigation continued at year's end.

In 2004 the Office of the Inspector General brought charges against six members of the Pijaos Antiterrorist Battalion for the death of Norberto Mendoza Reyes, also in Cajamarca. The prosecutor general's office continued to collect evidence to determine what disciplinary action to take in the case. In November the prosecutor general's office closed its preliminary investigation against five members of the security forces in the same case. At year's end the prosecutor general's office was determining against whom to bring charges.

In July the prosecutor general indicted the Commander of the Mobile Battalion Reveis Pizarro, Colonel Luis Francisco Medina, Captain Luis Eduardo Castillo, and Captain Hisnardo Alberto Zambrano, of the army's 18th Brigade, and one civilian for their role in the August 2004 killing of three trade union members near Saravena, Arauca Department. The case continued at year's end. In September the Office of the Inspector General also opened a disciplinary investigation for the case into the actions of a colonel, a second lieutenant, and three soldiers in the Reveis Pizarro Battalion. The investigation continued at year's end.

In September the Human Rights Unit of the prosecutor general's office captured 5 of the 11 army members with outstanding arrest warrants for their involvement in the October 2004 killing of Kankuamo indigenous leader Victor Hugo Maestre Rodriguez. While the military justice system had absolved the men for lack of proof, the Human Rights Unit found ballistic evidence and testimony that implicated them.

There were no new developments and none were expected in the air force investigation of the killing of a 9-year-old girl in November 2004.

On June 29, the Office of the Inspector General brought disciplinary charges against several members of the army in the case of the 2002 deaths of Florentino Castellanos and his son during a military operation near the town of Cantagallo, Bolivar Department. The military penal justice system continued its separate investigation into the case.

In April authorities transferred to Bogota the civilian criminal trial against the helicopter pilot, co-pilot, and navigator for the 1998 air force bombing of the village of Santo Domingo, Arauca Department that killed 17 persons. The proceedings began on August 31 and were ongoing at year's end.

Some members of the public security forces, including enlisted personnel, non-commissioned officers, and senior officials collaborated with or tolerated the activi-

ties of illegal paramilitaries. Evidence suggested tacit nonaggression pacts between local military officers and paramilitary groups existed in certain regions, such as eastern Antioquia, Choco, and Meta Departments, and indicated that members of the security forces actively assisted or sought the assistance of paramilitary groups. Impunity for military personnel who collaborated with members of paramilitary groups remained a problem.

According to AI, the May 2004 paramilitary massacre of 11 peasant farmers in the municipality of Tame, Arauca Department, took place during large-scale military operations in the area. On November 8, the prosecutor general's office issued an arrest warrant for AUC member Victor Manuel Mejia Munera for his role in the massacre.

There were developments in several cases related to military collusion with paramilitaries.

In January the case against retired Rear Admiral Rodrigo Quinones for failing to prevent the 2001 paramilitary massacre of 27 persons in the village of Chengue, Sucre Department was dropped for lack of evidence. The Human Rights Unit of the prosecutor general's office filed an appeal against the decision that subsequently was denied.

On July 17, the prosecutor general's office issued an arrest warrant for Sergeant Sergio Salazar Soto for conspiracy to commit crimes. According to the indictment, he is accused of helping paramilitaries carry out the massacre of 40 persons in Cienaga, Magdalena Department, in 2000.

In April the inspector general's office overturned the July 2004 ruling by the Administrative Tribunal of Cundinamarca Department that the government pay approximately \$22 million (50 billion pesos) to 120 families of victims of the 1999 paramilitary massacre near La Gabarra, Norte de Santander Department. The inspector general's office stated that the Administrative Tribunal's ruling that the police and army failed to prevent the massacre was premature.

In August the defense concluded its case involving retired Brigadier General Jaime Uscategui for his role in the 1997 massacre of at least 27 civilians in Mapiripan, Meta Department. The trial in absentia of former army colonel Hernan Orozco, who testified against Uscategui in an earlier military trial, also continued for his role in the massacre. In February authorities rejected the appeal of retired Colonel Lino Sanchez and upheld a 40-year sentence for his involvement in the massacre. In September the Inter-American Court of Human Rights ruled that the government had violated the rights of the victims of the Mapiripan massacre. In March the government announced it would accept responsibility for the massacre, carry out the court's conditions, and compensate the families of the victims.

In August 2004 the inspector general's office recommended that 8 members of the army be tried criminally for participation in the deaths of 10 persons in Huila Department between 1993 and 1994. In March a court sentenced Colonel Jose Ancizar Hincapie and Captain Enrique Bernardo Camacho to 36 years and 38 years in prison, respectively, for their participation in the massacre.

In September the government asked forgiveness from the families of the members of an investigative commission who were killed by paramilitaries in La Rochela, Santander Department, in 1989. The commission had been sent to investigate the deaths of the 19 merchants in Puerto Boyaca and the government apologized for not providing them sufficient protection.

In 2004 the Inter-American Court of Human Rights ruled the government shared responsibility for the 1987 killings of 19 merchants by paramilitaries in Puerto Boyaca, Boyaca Department. In July the media reported that the government asked forgiveness from the families of the merchants and constructed a monument in the memory of the victims, fulfilling 2 of the 23 conditions of the court's ruling. Many of the families of the victims remained concerned about the slow pace of implementing the court's decision. In addition the Ministry of Foreign Affairs reported that compensation funds were obligated and the form of payment was being finalized at year's end.

Paramilitaries continued to violate the 2002 cease-fire, including violations of international humanitarian law and human rights, which primarily affected innocent civilians. As of November the human rights ombudsman's office had received complaints concerning 1,132 alleged cease-fire violations including reports of massacres, kidnappings, selective killings, displacements, robberies, and the recruitment of children, a 28 percent decrease compared with 2004. On June 30, the Colombian Commission of Jurists (CCJ) claimed paramilitaries had killed at least 2,548 civilians since the 2002 cease-fire declaration. There were also numerous reports that demobilized paramilitaries committed human rights violations.

According to CINEP, paramilitaries were responsible for the deaths of 234 civilians from January through June, a 23 percent decrease from 304 deaths reported

during the same period in 2004. Paramilitaries killed journalists, local politicians, human rights activists, indigenous leaders, labor leaders, and others who threatened to interfere with their criminal activities or showed leftist sympathies. Paramilitaries also killed persons to protect criminal activities.

In January suspected paramilitaries killed Jaime Orlando Reuto Manosalve, the former mayor of Tame, Arauca Department.

The office of the UN High Commissioner for Human Rights (UNHCHR) reported that in January presumed paramilitaries killed eight indigenous people in La Guajira Department.

AI reported that on April 19, the bodies of at least 12 youths were found in Buenaventura, Valle del Cauca Department. Autopsies showed that the bodies had been burnt with acid and the victims were shot in the head. Amongst the youths were Afro-Colombians who reportedly had been threatened repeatedly by paramilitaries.

In May authorities arrested top AUC commander Diego Murillo Bejarano (a.k.a. "Don Berna") and eight members of the AUC bloc "Heroes of Tolova" for the April assassination of Orlando Benitez Palencia, a local official in Cordoba Department, and two others. Authorities initially confined Murillo to house arrest, but moved him to a maximum security facility in Bogota in October.

In August alleged paramilitaries killed Factor Antonio Durango, president of the labor union representing lottery ticket vendors who had denounced the infiltration of lotteries by armed groups. Durango told United Workers Federation (CUT) members that influential paramilitary members in Bello, Antioquia Department, summoned him to a meeting. The union allegations coincided with the findings of the police and other government investigators. *El Tiempo* reported that Durango had received death threats, but at the time of his death he was not receiving protection from the government program.

In October Afro-Colombian leader Orlando Valencia was kidnapped and killed (see section 5).

There were no new developments and none were expected in the investigations into the 2004 killings of the following individuals, reportedly by paramilitaries: Kankuamo indigenous leader Fredy Arias; Medellin community activist Ana Teresa Yance; television announcer Ines Pena; radio journalist Luis Alberto Castano; investigative journalist Claudia Julieta Duque; and local television hosts Milton Delgado and Milton Rosero.

There were reports that paramilitaries continued to commit "social cleansing" killings of prostitutes, drug users, vagrants, and gang members in city neighborhoods they controlled.

Continuing a trend that began in 2002, paramilitaries committed fewer massacres. The government's Presidential Program for Human Rights reported that at least 8 persons died in paramilitary massacres, compared with 18 in 2004. For example, on December 4-5, members of the AUC's Northern Bloc entered the town of Curumani in Cesar Department and killed several residents. Estimates as to how many were killed ranged from 8 to 22 people, and bodies were still being uncovered. The Office of the Prosecutor General opened an investigation that was ongoing at year's end.

In April authorities discovered two mass graves on former AUC ranches in San Onofre, Sucre Department containing 72 bodies. Residents suspected that the paramilitaries linked to local officials committed the killings, which the prosecutor general's office estimated occurred two or three years prior. The investigation continued at year's end.

In May the human rights ombudsman's office recommended that the government investigate the discovery by the NGO Foundation for Progress of 16 mass graves in Norte de Santander Department. The Association for the NGO Promotion of Social Alternatives attributed the deaths to conflicts between paramilitary and guerilla groups during the past five years.

In October the prosecutor general's office found a mass grave with 13 bodies buried in Medellin, Antioquia Department. Members of the families of the deceased and others attributed the killings to paramilitaries belonging to the Cacique Nutibara Bloc, run by "Don Berna."

In February a judge condemned 70 paramilitaries to 40 years in prison and a fine of \$148 thousand (340 million pesos) for the 2001 massacre of at least 20 peasants and indigenous people.

There were no new developments into the following killings committed by paramilitaries in 2004: Carlos Javier Sabogal, former governor of Meta Department; Euser Rondon, former mayor of Meta's El Dorado municipality; former member of congress Nubia Sanchez; and academic and sociologist Alfredo Correa.

In December the Office of the Prosecutor General issued arrest warrants for alleged paramilitaries Gilberto Leon Giraldo Gallego, Orlando Sanchez Gutierrez, and Cesareo de Jesus Hernandez for their participation in the 1996 massacre of 14 people in Segovia, Antioquia Department.

According to CINEP, paramilitaries committed at least 30 forced disappearances during the first 6 months of the year, compared with 48 in 2004. Paramilitaries often abducted persons suspected of collaboration with guerrillas; almost all of these persons were presumed dead. For example in November four armed men wearing camouflage uniforms abducted Jose William Martinez, a lawyer in Riohacha, La Guajira Department and businessman Mauricio Ernesto Vives Lacouture, the brother of Senator Luis Vives Lacouture. Police stated the kidnappers identified themselves as members of the AUC.

The National Foundation for the Defense of Personal Liberty (*Fondelibertad*) reported that paramilitaries were responsible for 16 kidnappings through November, or 5 percent of all kidnappings in which a perpetrator was identified. This constituted an 84 percent reduction compared with the same period in 2004.

Paramilitaries continued to forcibly displace civilians residing along key drug and weapons transit corridors or suspected of harboring sympathies for guerrillas (see section 2.d.).

Paramilitaries also prevented or limited the delivery of foodstuffs and medicines to towns and regions considered sympathetic to guerrillas, straining local economies and increasing forced displacement (see section 2.d.). For example in April authorities arrested Heibe Perea, a leader of a paramilitary group in Choco Department that embargoed the provision of food to four cities bordering the San Juan River, allegedly because the residents were guerilla collaborators.

According to Human Rights Watch, approximately 20 percent of child soldiers in the country belonged to paramilitary groups.

FARC and ELN guerillas committed unlawful killings, kidnapping civilians and military personnel, displacing populations, and recruiting child soldiers. They killed journalists, religious leaders, candidates for public office and local elected officials and politicians, alleged paramilitary collaborators, and members of the security forces. CINEP reported that guerrillas were responsible for 120 unlawful killings during the first 6 months of the year. The government's Presidential Program for Human Rights reported that, as of June, the FARC killed at least 14 persons in 3 massacres, although another 109 persons were killed in massacres in which the perpetrators remained unidentified.

In January authorities attributed to the FARC the shooting death of Ever Conda, governor of the indigenous reserve of La Ciria in Miranda, Cauca Department. Also in January the FARC accepted responsibility for the kidnapping and death of Efrén Pascal Nastacuas, governor of the Kuambi Yalasbi indigenous reserve of Ricaurte, Narino Department.

In February three FARC members killed the mayor of Genova, Quindio Department, and his escort. In March two FARC gunmen assassinated Oscar Gonzalez, congressional representative of Caldas Department. In October authorities sentenced Andres Felipe Ramirez Gomez and Diusley Delgado Hernandez to 52½ years and 26 years and 3 months in prison respectively for their roles in the killings.

In April the FARC attacked the town of Toribio, Cauca Department. Combat between the military and the FARC resulted in the deaths of four indigenous people. The attack also resulted in the displacement of thousands of persons (see section 2.d.).

In May several FARC members entered a Puerto Rico town hall council session in Caqueta Department and killed four councilors and the council secretary.

In August a suspected FARC member shot and killed parish priest Jesus Adrian Sanchez in Chaparral, Tolima Department. A taped conversation of a FARC deserter indicated that FARC Eastern Bloc Commander Jorge Briceno Suarez ordered the killing.

On August 15 the ELN attacked a car carrying priests Jesus Emilio Mora and Vicente Rosso Bayona, killing them both. The ELN publicly declared responsibility for the killings on August 19, asking for forgiveness from the families of the victims for having committed an error in attacking that car.

On December 3, former congressman and governor of Huila Department Jaime Lozada Perdomo was killed. Authorities suspected the FARC's Teofilo Forero Front was responsible. Lozada paid ransom in 2004 to the FARC to release his two kidnapped sons, who had been held for three years. Lozada's wife, Representative Gloria Polanco, was kidnapped by the FARC in 2001 and remained a hostage.

In September the DAS captured Fernando Arellan, a FARC member who authorities believed had a role in the 2003 car bombing of the club El Nogal in Bogota, which killed 36 persons. The trial of seven suspects in the case began in November.

In January the Specialized Penal Chamber of Cali sentenced FARC commander John Fredy Jimenez to 36 years' imprisonment, and sentenced hired gunman Alexander de Jesus Zapata Rios to 37 years' imprisonment for the 2002 killing of Isaias Duarte, the Roman Catholic Archbishop of Cali.

In July the prosecutor general's office indicted Gilberto de Jesus Torres, a suspected FARC member, for killing 74 people in a church in Boyaja, Choco Department in 2002.

There were several FARC massacres of public security forces. Reuters reported that, as of September, the FARC had killed 300 members of the public security forces.

In February, subsequent to infiltrating its ranks, the FARC killed 17 navy infantrymen in Iscuande, Narino Department. In December authorities brought charges against 5 navy infantrymen involved in the killing. The trial continued at year's end.

In March the FARC attacked a naval convoy escorting a military penal justice commission near Puerto Leguizamo, Putumayo, killing a Navy judge, an officer, two navy escorts, five marine infantrymen, and an army corporal.

On June 25, the FARC attacked a military base in Teteye, Putumayo Department, killing 21 soldiers. On the same day in Bucarasica, Norte de Santander Department, the FARC killed 6 soldiers who were trying to remove a road block between 2 communities.

On August 1, the FARC detonated a bomb that killed police officers riding in a truck as it traveled from Valledupar to Atanquez, Cesar Department.

On September 22, the FARC set off a land mine that destroyed a truck and killed nine police officers on patrol in an area of La Cruz, Narino Department.

Many FARC atrocities were related directly to drug trafficking activities. For example in July members of the FARC exploded charges of dynamite along the road between the towns of Juan y Medio and Riojacha in La Guajira Department, killing nine civilians.

The FARC also killed persons it suspected of collaboration with government authorities or paramilitaries.

There were no new developments into the investigation of suspected FARC leader Jorge Eliecer Martinez "Jeronimo Aljure," accused of killing 3 foreign indigenous rights activists in 1999 and at least 69 others since 1998.

The Security and Democracy Foundation reported that 43 demobilized paramilitaries were killed during the year. For example in February suspected guerrillas shot and killed demobilized paramilitary Wilson Caicedo Hurtado.

In April police arrested six guerrillas connected with an April 22 grenade attack on a daycare center in Buenaventura, Valle de Cauca Department that killed one child. Police suspected the attack was directed against the families of recently demobilized paramilitaries.

According to the Ministry of Defense, guerrillas committed 392 terrorist acts during the first 8 months of the year. For example in February suspected FARC members detonated an explosive device in the inspection station in Puerto Toledo, Meta Department that killed 3 soldiers and 2 civilians, including a 3-year-old child, and injured 18 others.

On April 14, FARC and ELN members invaded the municipality of Toribio, Cauca Department, killing a policeman and subsequently destroying the local church, the cultural center, and four houses around the town's central square.

The FARC and ELN continued to commit numerous kidnappings. *Fondelibertad* reported that guerrillas were responsible for 177 kidnappings through November, or 52 percent of those in which a perpetrator was identified. Of that number the FARC had kidnapped 115 persons, and the ELN kidnapped 62 persons.

In January members of the ELN kidnapped former congressman, Amadeo Rodriguez, in Curmani, Cesar Department.

In February FARC members kidnapped 10 persons from a bus on a route known for drug trafficking in Antioquia Department. The FARC released 6 of them, but 4 remained captive at year's end.

In March FARC members kidnapped six persons in separate incidents in Calima, El Darien, and Silvia, Cauca Department. Investigations into the six cases were ongoing at year's end.

In March suspected FARC guerrillas kidnapped five members of the NGO Inter-ecclesiastical Commission of Justice and Peace in Jiguamiando and Curvardo, Choco Department. They were released unharmed eight days after the kidnapping.

In November the FARC set up a roadblock and stopped a bus traveling near El Retorno, Guaviare Department, kidnapping 22 persons. Fourteen of the hostages were released on the same day.

In September the Office of the Prosecutor General brought charges against FARC members Wilmar Antonio Marin and Jose Rozo for the kidnapping and killing of Japanese national Chikao Muramatsu in 2001. The two remained in prison awaiting trial.

Kidnapping for ransom remained a major source of revenue for both the FARC and ELN. The Free Country Foundation reported that as of March there had been 88 kidnappings for ransom, representing approximately 50 percent of all kidnappings. *Fondelibertad* reported 187 kidnappings for ransom during the first 7 months of the year.

In January and February, the FARC released eight hostages kidnapped in December 2004 in San Rafael, Antioquia Department.

At least 58 children were kidnapped during the year. For example on June 14 FARC guerrillas kidnapped 16 indigenous children in Tame, Arauca Department.

The FARC and ELN committed politically motivated kidnappings, which they used to discredit the government or pressure it into a so-called "humanitarian exchange." For example in April members of the FARC kidnapped Carlos Ayala Saavedra, a member of the Delegation of the European Commission, in Cucuta, Norte de Santander Department. Ayala later escaped.

In September members of the ELN delivered the remains of former governor Ancizar Lopez Lopez to the ICRC. Lopez was kidnapped in 2002 and died in captivity.

In April the media reported a FARC announcement that it had killed Ramon Carranza, former DAS director of foreign affairs, who was kidnapped in 2001.

In September the army's 4th Brigade reported that FARC leader Francisco Puerta, (a.k.a. "Argemiro") said that Father Cesar Dario Pena had been killed. The FARC kidnapped Pena in 2001.

The FARC continued to hold political hostages taken in previous years, including former presidential candidate Ingrid Betancourt; former Senator Jorge Eduardo Gechem; former members of congress Orlando Bernal, Luis Eladio Perez, Francisco Giraldo, and Consuelo Gonzalez; Congresswoman Gloria Polanco; former Governor of Meta Department Alan Jara; 12 former regional legislators from Valle del Cauca Department; and at least 4 foreign-born persons. The FARC released several proof-of-life videos during the year, which stirred debate over the possibility of an exchange of hostages for imprisoned FARC members. The hostages' families, national and international NGOs, foreign governments, and prominent public figures pressured the government to cede to FARC demands for an exchange. On December 12, the government agreed to a proposal by an international commission to meet with the FARC in a secure location in Valle Department to discuss an exchange of hostages for prisoners. The FARC had not responded to the international commission's proposal by year's end.

In June the Special Tribunal of Florencia, Caqueta Department, sentenced the FARC leadership in absentia to nearly 40 years in prison for the 2002 kidnapping of Ingrid Betancourt.

According to the vice president's office, between 70 thousand and 100 thousand landmines were deployed nationwide, and 838 persons were injured in at least 1,424 mine explosions, a decrease of 23 percent compared with 2004. Guerrillas were responsible for more than 75 percent of landmine incidents, which killed at least 200 persons during the year. Some 28 percent of the victims were civilians.

Guerrillas failed to respect the injured and medical personnel. Both the FARC and the ELN frequently executed injured prisoners, threatened and harassed doctors and nurses, and killed enemy combatants receiving medical care. In March the FARC kidnapped six Caqueta Institute of Health workers who were vaccinating the population of Florencia, Caqueta Department. The FARC released the workers five days later.

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and remove potential government or paramilitary collaborators from strategic zones. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example in April the FARC blockaded the town of Toribio, laying landmines on the road to prevent vehicles from delivering food. In August the FARC blockaded major roads in Putumayo, cutting off the delivery of food and supplies. In October the FARC blockaded the border with Venezuela for 23 days cutting off food supplies to the region.

In November the FARC bombed electrical towers forcing hospital administrators in Buenaventura to postpone all surgeries and send patients home or to other cities for care.

Other terrorist groups also carried out attacks. In May the Guevarist Revolutionary army killed 10 police officers on the road between Quibdo and Pueblo Rico, Risaralda Department. In August 13 members of the Popular Liberation army (EPL)

killed 4 police officers in Monterredondo, Norte de Santander Department. In October the army rescued Arturo Ramirez, a businessman and cattle farmer, who had been kidnapped by the EPL three weeks prior.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

Although security forces generally did not subject journalists to harassment, intimidation, or violence, there were exceptions, as well as reports of threats and violence against journalists by corrupt officials. Journalists practiced self-censorship to avoid reprisals by corrupt officials, criminals, and members of illegal armed groups.

In January journalist Antonio Colmenares left the country after receiving threats from unidentified persons. Colmenares reported on economic and governance issues in Cucuta, Norte de Santander Department.

In August the director of a television news show, Daniel Coronell, left the country after receiving repeated death threats. Coronell had accused former senator Carlos Nader of sending him threatening e-mail messages and making threatening phone calls citing the precise location, clothing, and arrival times of Coronell's daughter at her school. Nader admitted that the e-mail messages had been sent from his computer but denied sending them. An investigation was ongoing at year's end.

In September police beat German Palma, a cameraman for the *Noticias Uno* television station, after Palma filmed a story in Bogota. Police also confiscated his camera and damaged the cassette before releasing him.

There were no new developments and none were expected into the investigation of the 2004 killing by unknown persons of journalist Oscar Alberto Polanco, a frequent critic of corrupt local government officials.

In January unidentified gunmen killed Julio Hernando Palacios Sanchez in Cucuta, Norte de Santander Department. Palacios was an investigative reporter on political corruption for a local radio station. An investigation was ongoing at year's end.

In February unidentified gunmen shot and killed photojournalist Hernando Marne Sanchez in Tulua, Valle de Cauca Department. Sanchez had not previously reported being threatened, and local police had not determined a motive by year's end.

In April two unidentified persons stabbed Oscar Acosta Arias to death in Sabaneta, Antioquia Department. Acosta was the director of the local newspaper and a member of the CUT. His newspaper regularly reported on cases of corruption in the region.

In September radio and print journalists Juan Gossain, Julio Sanchez, and Mauricio Vargas said they had received threats due to their coverage of corruption in the elections in Cartagena.

In September unidentified assailants attacked director of the publication *The New Century*, Juan Gabriel Uribe. The case was under investigation at year's end.

During the year members of illegal armed groups intimidated, threatened, kidnapped, and killed journalists. According to information gathered by the Colombia Foundation for Press Freedom, as of October, 1 journalist was killed and at least 52 threatened with death (see section 1.g.).

In May Reporters Without Borders noted that members of the FARC continued to destroy radio and television antennae.

The Ministry of Interior and Justice operated a program to protect journalists that covered 113 media representatives during the year. The ministry also supported an alerts network organized for journalists by providing a small number of radios and an emergency telephone hot line.

National and international NGOs reported that local media representatives regularly practiced self-censorship because of threats of violence from illegal armed groups, corrupt officials, and common criminals. At least 5 journalists went into voluntary exile during the first 10 months of the year.

There were no government restrictions on the Internet or academic freedom. However, guerrillas maintained a presence on many university campuses to generate political support for their respective causes and to undermine support for their adversaries through both violent and nonviolent means. Paramilitaries and guerrillas threatened, displaced, and killed academics and their families for political and financial reasons. According to the Ministry of Education, 18 teachers were killed during the year, a decrease of 62 percent compared with 2004.

Threats and harassment caused many professors and students to adopt lower profiles and avoid discussing controversial topics.

The Ministry of Education, in conjunction with the Colombian Federation of Educators (FECODE) and the Presidential Program for Human Rights, operated a pro-

gram for at-risk teachers with 78 regional committees to investigate specific threats against teachers and, in some cases, facilitate relocation with continued employment as educators. Approximately 1,500 threatened educators have been successfully relocated since 2004. According to FECODE, of the 21 cases of forced displacement registered through the end of September, 17 were carried out by paramilitaries. FECODE also reported 26 death threats during the same period and claimed that most of them were made by paramilitaries.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Freedom of association was limited in practice by threats and acts of violence committed by illegal armed groups against NGOs, indigenous groups, and labor unions (see section 1.g.).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The Roman Catholic Church retained a de facto privileged status. Accession to a 1997 public law agreement with the state is required for non-Roman Catholic religions to minister to their adherents in public institutions and to perform marriages recognized by the state. When deciding whether to grant accession, the government considers a religion's total membership, its degree of popular acceptance within society, and other relevant factors.

The prosecutor general's human rights unit continued its investigation after finding grenades, ammunition, and two-way radios at a small Taoist commune in a mountainous rural region of Santander Department in 2004. During the year three members of the community gave testimony about other alleged illegal activities perpetrated by the community, such as child sexual abuse.

Societal Abuses and Discrimination.—Both paramilitaries and guerrillas harassed, threatened, and sometimes killed religious leaders and activists, although generally for political, rather than religious, reasons (see section 1.g.). The Presidential Program for Human Rights reported that illegal armed groups, particularly the ELN, made numerous threats against priests and other religious workers and killed five priests. The Catholic Church reported that four priests were killed during the year.

The Jewish community had an estimated population of 5 to 10 thousand members. There were isolated reports of anti-Semitism, including graffiti painted on the exterior walls of synagogues and anti-Semitic statements in pamphlets published by small xenophobic organizations.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and while the government generally respected them in practice, there were exceptions. Military operations and occupation of certain rural areas was criticized by NGOs as restricting freedom of movement. During the year the Constitutional Court determined that the use of official curfews and safe-conduct passes is unconstitutional, and there no reports of these practices. Paramilitaries and guerrillas continued to establish illegal checkpoints on rural highways, although a larger and more visible government security presence along major highways reduced the number of kidnappings at illegal checkpoints.

The law prohibits forced exile, and the government respected this prohibition in practice. However, many persons from across the socio-economic spectrum went into self-exile because of threats from paramilitaries, guerrillas, or common criminals.

Internally Displaced Persons (IDPs).—The internal armed conflict was the major cause of internal displacement. The Social Solidarity Network (RSS), the government's displaced persons service agency, registered 131,716 newly displaced persons, down from 161,921 during 2004. The government attributed the decline to the large state security presence throughout the country and a decrease in paramilitary violence related to the government's negotiations with paramilitary groups. The NGO Consultancy for Human Rights and Displacement (CODHES) estimated that 252,801 persons were displaced during the first 9 months of the year, a 23 percent increase compared with CODHES' estimate for the same period in 2004. The apparent difference was because the government registered new IDPs whose applications for benefits have been accepted, while CODHES estimated new displacements based on information from the media, civil society, and some field work. CODHES also included as displaced persons coca and opium poppy producers who migrated in response to government drug eradication efforts but did not quantify the scope of this problem.

While precise numbers were difficult to obtain, the RSS has registered more than 1.7 million displaced persons since 1995; the UNHCR estimated that more than 2.5 million persons in the country had been displaced at some point during the last 15

years. The FARC and ELN discouraged IDPs from registering with the government through force, intimidation, and disinformation, and guerrilla agents sometimes masqueraded as IDPs to sow doubt and discontent among IDPs. Most IDPs were rural peasants displaced to large cities such as Bogota.

The UNHCR reported that exact numbers of indigenous of Afro-Colombian IDPs were difficult to obtain because of geographic isolation, displacement within traditional territories, and a tendency to seek assistance from other communities rather than the government. The National Indigenous Organization (ONIC) reported that 19,060 indigenous persons were displaced during the year. The government registered 5,880 new indigenous IDPs in the first 10 months of the year. CODHES estimated that during the year, 30 percent of the displaced population was Afro-Colombian. Paramilitaries and guerrillas continued to use forced displacement to gain control over strategic or economically valuable territory, weaken their opponents' base of support, and undermine government control and authority.

In February fighting between FARC and AUC members for control of drug producing and narcotics trafficking zones in Choco Department resulted in the displacement of more than 1,200 persons to Bellavista, according to the UNHCR. In April conflict between guerrillas and paramilitaries in Choco displaced an estimated 1,300 persons. In April the FARC also attacked Toribio, Cauca Department, shelling it and other towns nearby with gas cylinder bombs, resulting in additional forced displacement. The ICRC estimated that more than five thousand were displaced, many of them indigenous people. In September the FARC attacked the village of Samaniego in Narino Department, displacing the entire population of 350 residents to the neighboring town of Barbacoas.

On November 29, the government announced that it would spend \$2 billion in assistance for IDPs from 2005–10 and disbursed \$250 million during the year. Although the government increased its assistance to IDPs, it was seen as insufficient. IDPs continued to live in unhygienic conditions with little access to health care, education, or employment. The government provided assistance for the displaced principally through the RSS, the Colombian Family Welfare Institute (ICBF), and the Ministry of Social Protection. The ICRC provided the greatest amount of emergency (first 90 days) humanitarian assistance to the displaced.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing assistance to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant's claim. According to the government, 254 recognized refugees resided in the country, and 17 refugee cases were approved during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, generally free and fair elections held on the basis of nearly universal suffrage. Active duty members of the armed forces and police may not vote, and civilian public employees, although eligible to vote, are not permitted to participate in partisan politics. Beginning in 2006, legislation passed in December 2004 would allow public sector employees to participate in partisan politics during the four months immediately preceding a national election. The armed forces and police would still be prohibited from participating in the political process.

Elections and Political Participation.—In 2002 independent candidate Alvaro Uribe won the presidency in elections that generally were considered free and fair, despite a concerted campaign by the FARC and AUC to disrupt or manipulate the outcome.

Political parties generally operated without government interference. Political reforms approved during the year and scheduled to take effect for the March 2006 elections would raise the vote threshold that parties must meet from 50 thousand voters to 2 percent for either the Senate or the House of Representatives to retain formal status and gain access to government funds. While projections vary, most estimates hold that approximately 7 to 10 of the 60 existing parties would maintain their official status after the March 2006 elections.

The Liberal and Conservative parties have long dominated politics, but the election of President Uribe in 2002 as an independent and the success of third party candidates in regional elections suggested the political arena was widening.

Both paramilitaries and the FARC threatened and killed government officials (see section 1.g.). During the year the FARC killed eight serving and former mayors. According to the National Federation of Councils (FENACÓN), 23 council members were killed as of December 1. In Cauqueta Department, 10 council members and one secretary were assassinated. FENACÓN stated that 70 percent of attacks on council members were attributable to the FARC.

Scores of local officials throughout the country resigned because of threats from the FARC. In February Nelson Mazabuel, the mayor of Purace in Cauca Department resigned because of death threats from the FARC. Seven town councilors and the entire cabinet also resigned in solidarity.

The Ministry of Interior and Justice reported that, due to safety concerns, at least one mayor conducted business from a regional capital via telephone. Councils from Algeciras, Huila Department; Purace, Cauca Department; San Vicente del Caguán, Doncello, and Puerto Rico, Cauqueta Department all met in department capitals during the year. A ministry of interior and justice program to protect vulnerable populations provided protection to 195 mayors, former mayors, and 1,006 council members during the year.

The law requires that women be placed in at least 30 percent of nominated government posts, and that the government report to Congress each year the percentage of women in high-level government positions. There were 11 women in the 102-member Senate, and 20 women in the 166-member House of Representatives, including its president. There were 5 women in the 13-member cabinet and 2 on the 23-member Supreme Court.

There were four indigenous senators, two of whom occupied seats reserved for indigenous persons, and one indigenous member of the House of Representatives. There were no indigenous cabinet members and no indigenous persons on any of the nation's high courts.

There were two Afro-Colombian senators and three Afro-Colombian members of the House of Representatives. There were no Afro-Colombian cabinet ministers and no Afro-Colombians on any of the nation's high courts. In September President Uribe appointed Afro-Colombian Hitler Roseau Chaverra Ovalle as director of the Presidential Program for Colombian Youth.

Government Corruption and Transparency.—The country suffered from endemic corruption and graft in both the public and private sectors. Drug trafficking revenues exacerbated corruption, which was as effective a tool as violence for illegal armed groups and large drug trafficking organizations. The NGO Transparency International noted that perceptions of corruption improved slightly during the year.

Government and private sector analysts agreed that a black market of illegal commissions governed incentives for many business transactions.

For example in September the prosecutor general's office opened a case against the governor of Meta Department to investigate irregularities in the awarding of a \$64,700 (149 million pesos) contract for school supplies. In August the inspector general barred Bogota city official German Ruiz Silva from holding public office for five years for fraud in the granting of construction licenses. In October the mayor of Villavicencio and the former minister of health were barred from public service for 10 and 12 years, respectively, for accepting bribes in the awarding of hospital contracts.

In February authorities canceled 9.3 percent of the 2002 Senate election results because the National Electoral Commission detected fraud in the ballots. New elections were held in March.

Corruption related to illegal armed groups was a serious problem. For example in October DAS Director Jorge Noguera and DAS Deputy Director Jose Miguel Narvaez both resigned following allegations that Narvaez had ties (including information sharing) to paramilitaries. In November new DAS Director Andres Penate fired five regional DAS directors suspected of ties to paramilitaries.

In March a judge and jury determined that there was insufficient evidence to convict Cucuta Mayor Ramiro Suarez Corzo of having ties to paramilitary groups because he met with individuals linked to paramilitary groups in 2004.

In June authorities arrested Casanare Department Governor Miguel Angel Perez for allegedly receiving \$217 thousand (500 million pesos) from paramilitary chief "Martin Llanos" to finance his 2003 political campaign. An investigation into the case and the related assassination of paramilitary Luis Martin, who delivered the money, was ongoing at year's end.

In November the prosecutor general's office indicted four people on charges of alien smuggling, conspiracy, filing false declarations, and extortion in the 2004 case involving allegations that staff from the Senate Human Rights Committee sold fabricated death threats used by purchasers to bolster petitions for asylum in foreign countries.

The law provides for public access to government information, and the government generally provided such access in practice. Information relating to defense or national security, or sensitive personal information that could be used to intimidate or embarrass private citizens, was not available to the public. While there are no prohibitive fees to access government information, there were reports that a few low-level officials insisted on bribes to expedite access to information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to their views, NGOs claimed that high-level criticisms put them at risk for retaliation by illegal armed groups.

Several thousand human rights and civil society NGOs were registered in the country, although most existed only on paper. Local human rights NGOs had far-reaching influence. By sharing information among themselves and disseminating it to international human rights organizations and the media, they raised the country's human rights profile and contributed to significant levels of international attention.

The government and prominent local NGOs differed in their evaluations and analyses of the human rights situation, which led to profound mutual suspicions.

Some NGOs claimed criticisms made by President Uribe put them at risk for retaliation by paramilitaries. In February the Constitutional Court determined that Uribe should avoid statements that put human rights workers at risk. In May the Jose Alvear Restrepo Lawyers' Collective told the president that they believed his verbal attacks on human rights NGOs provoked threats and harassment.

Many domestic NGOs also contended that the government arbitrarily arrested human rights activists, particularly in high conflict areas (see sections 1.d. and 6.a.). The government asserted that some human rights activists actually were engaged in activities that supported terrorism. There were no significant updates regarding the 2004 arrest of Luz Perly Cordoba, secretary general of the agricultural workers union FENSUAGRO and human rights director of the Arauca Peasants Association.

The Ministry of Interior and Justice and the DAS allocated approximately \$25 million (57.5 billion pesos) to its program to protect human rights activists and many other vulnerable populations. The government provided protection to more than 604 human rights activists during the year and bulletproofed 223 additional offices and residences.

According to the CCJ, 38 human rights activists were killed and 3 were forcibly disappeared during the year; 8 of the killings were attributed to paramilitaries (see section 1.g.).

There were several reports of thefts of computers and electronic data from human rights groups. For example in March unidentified thieves entered the headquarters of the NGO Association of Relatives of the Disappeared in Popayan, Cauca Department, and stole a computer hard drive. During the year unidentified burglars entered the headquarters of the Permanent Assembly of Civil Society for Peace and stole hard drives. In December unidentified robbers entered the headquarters of the National Victims Movement, tied up a person, stole their hard drive, \$100 (227 thousand pesos), and other items.

International NGOs criticized the government for some direct violations of human rights, for high levels of impunity, and for its failure to sever links between the military and paramilitaries.

While the Uribe Administration maintained an open dialogue with NGOs and met with them several times during the year, NGOs complained that they had difficulty getting meetings with government officials or getting prompt replies to their correspondence.

In January the Government of Denmark announced it had found no proof that the Danish NGO Association Rebellion's 2004 donation of \$8,500 (18 million pesos) to the FARC was an act that supported international terrorism. However, on December 1, Danish police charged the group's spokesman, Patrick MacManus, with having directly or indirectly transferred approximately \$16 thousand (100 thousand kroner) between the FARC and a Palestinian group. MacManus also was charged with attempting to raise funds for the two groups.

The government cooperated with international governmental organizations. The UNHCR, the International Organization for Migration (IOM), the International Labor Organization (ILO), the UNHCHR, and the ICRC had an active presence in the country and carried out their work without government interference.

In May UNHCHR Louise Arbor visited the country. Arbor stated that while violent crimes continued to decrease the human rights situation remained critical, and concerns continued regarding the lack of progress in specific cases (see sections 1.a. and 1.g.).

In its 2004 human rights report, the UNHCHR again issued 27 recommendations to improve the human rights situation in the country, 24 of which were directed at the government and the independent prosecutor general's office (see section 1.e.). Some of the recommendations had been broadened from previous years. Throughout the year the government met with the UNHCHR, local NGOs, and members of the diplomatic corps to discuss its action plan and the steps it had taken to comply with the recommendations. While acknowledging progress on several recommendations, the UNHCHR and local NGOs reported that the government had not fully complied with most of them by year's end. In November the UNHCHR signed an agreement with the Ministry of Defense to evaluate whether the ministry's implementation of the recommendation regarding human rights training for the security forces was adequate.

The national human rights ombudsman is independent, reports to the inspector general (see section 1.e.), and has responsibility for ensuring the promotion and exercise of human rights. The government generally cooperated with the ombudsman. The ombudsman's Bogota office was the headquarters of a national Early Warning System designed to alert public security forces of impending human rights violations, particularly large-scale massacres. Due to resource constraints the office generally was underfunded and understaffed, limiting its ability to effectively monitor human rights violations or prevent their occurrence.

Regional human rights ombudsmen were under constant threat from illegal armed groups. For example in July La Guajira Department ombudsman Rafael Caro resigned due to death threats by unknown actors. The military had previously uncovered an April 2004 FARC threat against Caro.

The government's Presidential Program for Human Rights and International Humanitarian Law, which operated under the authority of the vice president, coordinates national human rights policy and actions taken by government entities to promote or protect human rights. It is the government's primary interlocutor with domestic and international NGOs and with foreign governments on human rights issues. The program publishes a regular *Human Rights Observer* magazine that provides analyses of major human rights issues and the human rights situation in various regions of the country.

Both the Senate and House of Representatives have human rights committees. The committees serve as fora for discussion of human rights issues but have no authority to draft legislation. As a result they lacked prestige and added little of substance to the national human rights debate.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law specifically prohibits discrimination based on race, gender, disability, language, or social status, many of these prohibitions were not enforced in practice.

Women.—While the law prohibits domestic violence, including spousal abuse, it remained a serious problem. Judicial authorities may remove an abuser from the household and require therapy or re-education. The law provides prison time if the abuser causes grave harm or is recurrent; however, provisions for fines were not applied. The Institute for Legal Medicine and Forensic Science reported 19,251 cases of domestic violence against women in the first 6 months of the year, but noted that only a small percentage of cases were brought to its attention. The ICBF stated that only 5 percent of domestic violence cases were reported. The law stipulates that the government must provide victims of domestic violence with immediate protection from physical or psychological abuse. ICBF provided safe houses and counseling for victims, but its services were dwarfed by the magnitude of the problem. In addition to fulfilling traditional family counseling functions, ICBF family ombudsmen handled domestic violence cases. The human rights ombudsman's office conducted regional training workshops to promote the application of domestic violence statutes.

Although the law prohibits rape, including spousal rape, it remained a serious problem. The law provides for a maximum sentence of 15 years and a minimum sentence of 8 years for violent sexual assault. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders. The Institute for Legal Medicine and Forensic Science reported 17,802 cases of suspected sex crimes, including rape, but estimated that approximately 25 percent of such crimes actually were reported. Paramilitaries and guerrillas raped, sexually abused, and, in some cases, sexually mutilated women and children for allegedly fraternizing with the enemy, working

as prostitutes, having sexual relations outside of marriage, or violating imposed codes of conduct or restrictions on dress. ICBF provided psychosocial, medical, and legal support to victims of sexual violence.

Adult prostitution is legal in designated "tolerance zones" but enforcement of and restriction to the zones remained difficult. Prostitution was widespread and exacerbated by a poor economy and internal displacement. Sex tourism existed to a limited extent, particularly in coastal cities such as Cartagena and Barranquilla, where marriage and dating services were often fronts for sexual tourism. The law prohibits organizing or facilitating sexual tourism and provides penalties of three to eight years' imprisonment. Trafficking in women for sexual exploitation continued to be a problem (see section 5, Trafficking).

There were no laws prohibiting sexual harassment, and it remained a pervasive problem.

Although women enjoy the same legal rights as men, discrimination against women remained a persistent problem. Women faced hiring discrimination, were disproportionately affected by unemployment, and had salaries that generally were incompatible with their education and experience. Female workers in rural areas were affected most by wage discrimination and unemployment. Women also were affected disproportionately by the internal armed conflict, making up 58 percent of internally displaced persons in the country.

The president's advisor for equality of women has primary responsibility for combating discrimination against women and ran a program to help women who were micro business entrepreneurs and heads of families to get favorable lines of credit for their companies. NGOs such as the Popular Women's Organization in Barrancabermeja, Santander Department, and the Women's Path to Peace, in Medellin, Antioquia Department, worked on women's issues, particularly peace initiatives.

Children.—The government generally was committed to children's rights and welfare. ICBF oversees all government child protection and welfare programs and also funds nongovernmental programs that benefit children.

Public schooling is provided up to age 18, and is universal, compulsory, and free up to age 15. The National Department of Statistics (DANE) estimated that more than 8 million children between ages 6 and 15 attended school. The government covered the basic costs of primary education, although many families struggled with additional expenses such as matriculation fees after age 15, books, school supplies, and transportation costs that often were prohibitive, particularly for the rural poor.

While the government provided equal medical care to boys and girls, medical facilities were not widely available, especially in rural areas.

Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported 10,170 cases of child abuse during the year. The institute also estimated that 86 percent of the 17,802 reported sex crimes involved sexual abuse of children, the vast majority of whom were under the age of 14.

Children were trafficked for sexual exploitation (see section 5, Trafficking).

Although the law prohibits service in the public security forces before age 18, both paramilitaries and guerrillas forcibly recruited and used children as soldiers. The IOM estimated that since 1999 it assisted 2,426 children in the country who had been members of illegal armed groups. The Ministry of Defense estimated that 20 percent of FARC members were minors and that most guerrilla fighters had joined the FARC ranks as children.

A 2002 UN Children's Fund (UNICEF) study noted that because of limited educational and economic opportunities and a desire for acceptance and camaraderie, an estimated 83 percent of child soldiers volunteered. Nevertheless, many children found membership in guerrilla and paramilitary organizations difficult, and the Ministry of Defense reported an increase in the number of minors deserting illegal armed groups. At least 526 children surrendered to state security forces during the year and were transferred to ICBF, who operated a reinsertion program for former child soldiers. Of these, 176 were former members of the FARC. Unlike in previous years, no child ex-combatants were assisted in their communities.

Child labor was a problem (see section 6.d.).

The UNHCR reported that 74 percent of IDPs were women and children (see section 2.d.). Displaced children particularly were vulnerable to physical abuse, sexual exploitation, and recruitment by criminals.

Trafficking in Persons.—Although the law prohibits trafficking in persons, there were reports that persons were trafficked from, through, and within the country.

The law provides for prison sentences of between 13 and 23 years and fines of up to 1 thousand times the monthly minimum wage for violators. These penalties may be increased by up to one-third if there are aggravating circumstances, such

as trafficking of children under the age of 14. Additional charges of illegal detention, violation of the right to work in dignified conditions, and violation of personal freedom also may be brought against traffickers. While limited resources hindered prosecutions, between 2000 and December, the prosecutor general's office opened 33 trafficking investigation cases, of which 3 resulted in indictments. Trials were pending at year's end. There was a general perception that government enforcement efforts were poor.

An advisory committee composed of several government agencies prepared information campaigns, promoted information exchange between government entities, and maintained a database to monitor trafficking cases. The prosecutor general's Anti-Trafficking Unit has the lead on combating trafficking. The government cooperated with foreign counterparts on investigations.

The country was a source for trafficking in persons, primarily for sexual purposes. The IOM received 9,760 phone calls, of which 36 were related to trafficking. Destination countries included Spain, Japan, Hong Kong, the United States, and other South American countries. The vast majority of trafficking victims were young women, although children and young men were also at risk. Internal trafficking of women and children from rural to urban areas for sexual exploitation and forced labor remained a serious problem. Victims also transited the country from other South American countries on their way to Europe and the United States.

Many traffickers disclosed the sexual nature of the work they offered but concealed information about working conditions, clientele, freedom of movement, and compensation. Others disguised their intent by portraying themselves as modeling agents, offering marriage brokerage services, or operating lottery or bingo scams with free trips as prizes. Recruiters reportedly loitered outside high schools, shopping malls, and parks to lure adolescents into accepting nonexistent jobs abroad. Most traffickers were well-organized and linked to narcotics or other criminal organizations. The armed conflict created situations of vulnerability for a large number of internal trafficking victims.

The country's diplomatic missions provided legal and social welfare assistance to victims abroad and worked with the IOM to repatriate victims. The IOM strengthened government institutions involved in antitrafficking efforts and assisted trafficking victims. From September 2004 to December, the IOM trained 197 officials on trafficking issues, gave sensitivity training to 1,389 officials, and provided victims with job training and employment opportunities. The IOM also helped victims obtain necessary medical and psychological care. The antitrafficking NGO the Hope Foundation provided educational information, social support, and counseling to trafficking victims. The Rebirth Foundation also provided housing, psychosocial therapy, medical care, and legal assistance to child victims of sexual exploitation through trafficking.

The IOM continued its major antitrafficking public awareness campaign that included placing large posters in airports, foreign consulates, and travel agencies, and running professionally produced public service announcements on television.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these prohibitions. There is no law mandating access to public buildings for persons with disabilities. The law provides persons with physical disabilities access to voting stations. The Presidential Program for Human Rights is responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Approximately 26 percent of the population was of African origin. While Afro-Colombians are entitled to all constitutional rights and protections, they faced significant economic and social discrimination. An estimated 74 percent of Afro-Colombians earned less than minimum wage. Choco, the department with the highest percentage of Afro-Colombian residents, had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. It also continued to experience some of the country's worst political violence, as paramilitaries and guerrillas struggled for control of the department's key drug and weapons smuggling corridors.

In October two men, alleged by witnesses to be known paramilitaries, kidnapped community leader Orlando Valencia in Belen de Bajira, Choco Department. Valencia's body was found 10 days later in a nearby river. An investigation was ongoing at year's end.

Indigenous People.—The constitution gives special recognition to the fundamental rights of indigenous people, who comprised approximately 2 percent of the population.

By law indigenous groups have perpetual rights to their ancestral lands. Traditional Indian authority boards operated approximately 866 reservations as municipal entities, with officials selected according to indigenous traditions. However, many indigenous communities had no legal title to lands they claimed, and illegal armed groups often violently contested indigenous land ownership. The National Agrarian Reform Institute administered a program to buy back lands declared to belong to indigenous communities.

The law provides for special criminal and civil jurisdictions within indigenous territories based on traditional community laws (see section 1.e.). Proceedings in these jurisdictions were subject to manipulation and often rendered punishments that were more lenient than those imposed by regular civilian courts. The law permits indigenous communities to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous men are not subject to the national military draft.

Indigenous leaders complained about the occasional presence of government security forces on indigenous reservations and asked that the government consult with indigenous authorities prior to taking military action against paramilitaries and guerrillas in such areas. The government stated that for security reasons it could not provide advanced notice of most military operations.

The Ministry of Interior and Justice, through the Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and traditional rights of indigenous people. Ministry representatives resided in all regions of the country and worked with other governmental human rights organizations and NGOs to promote indigenous interests and investigate violations of indigenous rights.

Despite special legal protections and government assistance programs, indigenous people continued to suffer discrimination and often lived on the margins of society.

Members of indigenous communities continued to be victims of all sides in the internal armed conflict (see section 1.g.). According to the Presidential Program for Human Rights, 48 indigenous people were killed during the year, at least 3 by paramilitaries and 13 by the FARC. The Ministry of Interior and Justice operated a program that provided protection to 85 indigenous leaders during the year.

In March the Office of the Human Rights Ombudsman concluded in its preliminary investigation that several army soldiers were responsible for firing on a school bus carrying 30 indigenous students (seriously injuring 1) on February 14 in Totoro, Cauca Department. The investigation continued at year's end.

The UNHCHR continued to criticize threats and violence against indigenous communities, characterized government investigations of human rights violations against indigenous groups as inadequate, and appealed to the government to do more to protect indigenous people. The ONIC reported many incidents in which illegal armed groups forcibly recruited indigenous people or obligated them to collaborate, restricted indigenous people's freedom of movement, and blockaded indigenous communities.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to organize unions, and the government generally respected this right in practice. The law does not cover members of the armed forces or police. Violence against union members and antiunion discrimination remained obstacles to joining unions and engaging in trade union activities, and the number of unions and union members continued to decline. Approximately 900 thousand workers were members of unions, representing less than 5 percent of the labor force.

The labor code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a registration process; however, the process was slow and sometimes took years. The government can compel trade unions to provide interested third parties with relevant information on their work, including books, registers, plans, and other documents, but this power rarely was used.

In June the ILO noted that the country had a deplorable record for union activism. The ILO urged the government to stop what it described as an "intolerable situation of impunity" and expressed concern that the impunity "contributed to the climate of violence affecting all sectors of the society and the destruction of the trade union movement." The government responded that the freedom of association was protected under the law. In October the ILO Committee of Experts made a technical visit to investigate the issue of right of association and other impediments to organizing. While highlighting government cooperation and progress, the ILO also noted the need for further efforts in the area of impunity for labor-related violence and recommended the establishment of a permanent ILO presence in the country to address these issues.

Labor leaders continued to be targets of attacks by illegal armed groups, primarily for political reasons (see section 1.g.). According to the Ministry of Social Protection (MSP) 13 trade unionists were killed during the year, compared with 21 in 2004. While noting that killings of trade union leaders had declined, the ILO Committee of Experts noted a “persistent climate of violence” in the country, with killings occurring in several departments.

Illegal armed groups disproportionately targeted educators, who represented approximately 33 percent of the organized work force. Labor groups count teachers affiliated with trade unions as a part of the total number of trade unionists killed, whereas the MSP counts them as separate statistics. The MSP reported that 26 teachers affiliated with unions were killed during the year. There had been no convictions in any of these cases by year’s end. The teachers’ federation president stated that the situation was most serious in Toribio, where every teacher was displaced due to threats and violence.

Illegal armed groups killed, kidnapped, and threatened trade union members for political and financial reasons (see section 1.g.).

Not all violence against trade unionists was committed by illegal armed groups. In May unknown perpetrators killed Adan Alberto Pacheco, an electrical worker’s union leader, in Barranquilla, Atlantico Department. According to CUT Vice President Jesus Tovar, at least 29 unionists in this region have been killed since 1993. In September Luciano Enrique Romero Molina, a leader in the food workers union, was found tortured and stabbed to death on the outskirts of Valledupar, Cesar Department. Molina had just returned from a year of exile in Spain, where he had participated in an international program to protect labor leaders receiving death threats. In August Roberto Valiente, president of the Magdalena chapter of the Hotel Association of Colombia, was shot twice by unidentified gunmen as he was leaving a hotel.

Some labor leaders alleged the government attempted to marginalize trade unions by arbitrarily arresting trade union members on suspicion of engaging in terrorist activity. According to the National Labor College, security forces arbitrarily detained trade unionists during the year. For example in November authorities arrested union activist Miguel Fernandez-Orozco on charges of contempt of court, aggravated threats, and false accusations. The charges were based on an anonymous phone tip that accused Fernandez-Orozco of mounting a false security threat. Labor groups expressed concern that prosecutors took advantage of Fernandez-Orozco’s personal problems to imprison him as a means of quelling his union activism. A trial was pending at year’s end.

Union leaders contended that perpetrators of violence against workers operated with virtual impunity. At year’s end authorities had not identified those responsible for the killings of 13 trade unionists and 26 teachers affiliated with unions during the year. Threats, intimidation, or coercion against prosecutors, judicial investigators, and witnesses contributed to impunity in these cases.

In July the prosecutor’s office ordered the arrests of four army officers for the killing of three labor leaders in Arauca in August 2004, and the investigation continued at year’s end (see section 1.g.).

There were no new developments in the 2003 civil suit in a foreign court brought by the National Union for the Mining and Energy Industry (SINTRAMINERGETICA) involving company acquiescence in the killings by paramilitaries of three local union activists.

In September the prosecutor general created a new taskforce dedicated to investigating all human rights violations against union leaders.

While the law prohibits antiunion discrimination, a number of long-standing ILO criticisms of the labor code challenged the scope and effectiveness of the law. The ILO specifically criticized: the requirement that government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from their jobs within six months following a strike or dispute; the requirement that candidates for trade union offices belong to the occupation that their unions represent; the prohibition of strikes in a wide range of public services that are not necessarily essential; the government’s power to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike. The government countered that the ILO technical assistance helped to draft the labor code, and that it does not impede labor rights.

b. The Right to Organize and Bargain Collectively.—The law provides for workers’ right to organize and bargain collectively, and the government respected this right in the private sector; however, collective bargaining was not implemented fully in the public sector. There were 900 thousand workers nationwide with collective bargaining contracts. However, high unemployment, a large informal economic sector,

traditional antiunion attitudes, and violence against trade union leaders made organizing unions difficult. Weak union organization and a requirement that trade unions represent a majority of a company's workers to negotiate on their behalf limited workers' bargaining power in all sectors. There are no special laws or exemptions from regular labor laws in export processing zones. Labor law applies in the country's 15 free trade zones, and its standards were enforced.

Collective pacts between individual workers and their employers are not subject to collective bargaining. Collective pacts give employers the right to negotiate accords on pay and labor conditions at any time with extemporaneous groups of workers when no union is present or represents less than half of the employees. Labor groups complained that collective pacts were used by employers to complicate and discourage labor organization. In practice when a union presented a collective bargaining proposal, employers offered some workers better conditions and pay in exchange for their leaving the union and temporarily joining the pact, which undermined organized labor's ability to bargain collectively.

The continued growth and prevalence of workers' cooperatives further diminished collective bargaining. Workers' cooperatives are required to register with the superintendent of economic cooperatives, which estimates the number of such cooperatives at 1,500 and the number of associated workers at 150 thousand. Workers' cooperatives are obligated to provide compensation at least equivalent to the minimum wage and the same health and retirement benefits as other workers receive.

Investigators discovered that most cooperatives engaged in subcontracting and, in some cases, that private sector employers had forced workers to form cooperatives and were themselves managing the cooperatives' daily operations. The government has the authority to fine violators but has no recourse to shut down repeat offenders. In practice nominal fines assessed by the government did little to dissuade violators.

The law provides for the right to strike, and workers exercised this right in practice; however, members of the armed forces, police, and persons performing "essential public services" as defined by law are not permitted to strike.

Before staging a legal strike, public sector unions must negotiate directly with management and accept mediation if they cannot reach an agreement. The law prohibits the use of strikebreakers. The law that prohibits public employees from striking often was overlooked. By law public employees must accept binding arbitration if mediation fails.

During the year the National Oil Workers Union (USO) tried unsuccessfully to reopen negotiations with Ecopetrol (the state-owned oil company) concerning their failed labor contract negotiations in 2004. In December the Arbitration Tribunal stated that a new negotiation proposal could be submitted after December 8. The USO presented its arguments for a new negotiation to the MSP and Ecopetrol, but Ecopetrol refused to negotiate, claiming the Arbitration Tribunal's order in 2004 was final and could not be appealed. Negotiations continued at year's end.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred.

Paramilitaries and guerrillas practiced forced conscription (see section 5). There were some reports that guerrillas and paramilitaries used forced labor, including child labor, in areas outside government control (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—While there are laws to protect children from exploitation in the workplace, child labor remained a significant problem, particularly in the informal sector. The Colombian Family Welfare Institute reported that at least 2.5 million children worked in the country. Only one in five children was estimated to be working legally.

The Minor's Code categorically prohibits the employment of children under 12 and severely limits work between the ages of 12 and 13. The constitution allows the employment of children between the ages of 14 and 17 in a limited number of occupations. The labor code allows the granting of work permits to children under 18 in certain occupations. The Minor's Code also requires exceptional conditions and the express authorization of the Ministry of Labor to employ children between 12 and 17.

The legal minimum age for work was inconsistent with completing a basic education, and only 38 percent of working children attended school. All child workers are prohibited from working at night or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Although children are prohibited from working in a number of specific occupations, including mining and construction, in practice these prohibitions largely were ignored.

According to a recent report released by the Colombian Institute for Children and Families, 300 thousand children worked in illegal mining operations. According to DANE, children also worked as coca pickers or in other aspects of the illegal drug trade. Children are also engaged in illegal conscripted labor as child soldiers.

Although there were no reports of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (see sections 1.f. and 5), prostitutes (see section 5), or coca pickers. The Minor's Code provides for fines of up to 40 minimum monthly salaries for violations of child labor laws. A violation deemed to endanger a child's life or threaten moral values may be punished by temporary or permanent closure of the responsible establishment.

The MSP is responsible for enforcing child labor laws in the formal sector (which covered approximately 20 percent of the child labor force) through periodic inspections. Resources were inadequate for effective enforcement.

The National Committee for the Eradication of Child Labor, which includes officials from several government agencies and civil society groups, conducted training on legislation and enforcement and operated an information system on child labor to better measure and understand the problem. The committee was instrumental in presenting child labor legislation in December that would prohibit children from performing 104 types of work (including domestic employees, garbage collectors, and messengers) considered unsuitable for those under 18; the legislation was subsequently passed.

UNICEF continued a program to encourage children to leave the workforce and return to school.

e. Acceptable Conditions of Work.—The government establishes a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, which is set by tripartite negotiations among representatives of business, organized labor, and the government, was approximately \$167 (380 thousand pesos). The national minimum wage did not provide a decent standard of living for a worker and family.

The labor code provides for a regular workweek of 48 hours and a minimum rest period of 8 hours within the week. The code stipulates that workers are entitled to receive premium compensation for additional hours worked over the regular workweek of 48 hours and for work performed on Sundays. Compulsory overtime is permitted only in cases where it is considered essential for the functioning of the company and where the work could not be required routinely.

The law provides comprehensive protection for workers' occupational safety and health, which the MSP enforced through periodic inspections. However, a lack of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. Workers in the informal sector sometimes suffered physical or sexual abuse.

The law provides workers with the right to remove themselves from a hazardous work situation without jeopardizing continued employment, and the government enforced this right. Non-union workers, particularly those in the agricultural sector, often continued working in hazardous conditions because they feared losing their jobs if they criticized abuses.

COSTA RICA

Costa Rica, a constitutional democracy with a population of approximately 4.2 million, is governed by a president and unicameral Legislative Assembly directly elected in free multiparty elections every four years. In 2002 Abel Pacheco de la Espriella, of the Social Christian Unity Party (PUSC), won elections that generally were considered free and fair. While civilian authorities generally maintained effective control of the security forces, some members of the security forces committed isolated human rights abuses.

The government generally respected the human rights of its citizens and improved its human rights performance in several areas. The following human rights problems were reported:

- overcrowding and inadequate medical services at prisons
- substantial judicial process delays, particularly in pretrial detention and in civil and labor cases
- antiquated libel laws and excessive penalties for violations
- domestic violence against women and children
- child prostitution

- child labor

The following improvements in the human rights situation occurred: increased prison capacity reduced system-wide overcrowding to 4 percent; government agents were held accountable for human rights violations; and the government initiated comprehensive efforts to eradicate child labor and reduce the commercial sexual exploitation of children.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, some members of the security forces committed abuses. Any statement obtained through violence is invalid, and the government investigated, prosecuted, and punished agents responsible for confirmed cases of abuse.

In August the Criminal Court of the First Judicial Circuit of the Atlantic Zone found four police officers guilty of abuse of authority for beating a suspect who resisted arrest for public disturbance. Each officer received a 3-year suspended sentence. All four defendants appealed the judgment, and the appeals were pending at year's end.

In May a former police officer stood trial for allegedly beating a robbery suspect in an attempt to force a confession following an arrest in 2003. At year's end the criminal trial was still ongoing. The officer resigned his post in March, which nullified all administrative actions against him and ended the internal investigation.

The ombudsman's office lodged and recorded complaints of police misconduct (see section 4). As of August the ombudsman's office had received 47 reports of police abuse of authority or misconduct. Of these, 34 reports remained under investigation, 1 was determined to be legitimate, and 12 were found to be without merit.

On November 10, an individual was attacked by two guard dogs on private premises he had unlawfully entered during the early morning hours. Seven public security officers witnessed the attack but did not intervene for nearly an hour while the dogs mauled the victim. The officers alleged they could not shoot the dogs for fear of injuring the victim, who was found to be Nicaraguan. An investigation into the officers' actions proceeded at year's end.

Prison and Detention Center Conditions.—Although the government worked to improve prison conditions during the year, overcrowding, poor sanitation, lack of health services, and violence among prisoners remained problems in some prison facilities. The ombudsman's office investigated all complaints and referred serious cases of abuse to the public prosecutor. Illegal narcotics were readily available in the prisons, and drug abuse was common.

While penitentiary overcrowding remained a problem, recent expansions at several prison facilities reduced the prison population rate at year's to its capacity level. The major expansion of prison capacity occurred in the maximum security and youth facilities at the La Reforma prison complex. Crowding remained a problem in the San Sebastian and San Carlos prisons, which were 22 and 23 percent over capacity, respectively. At year's end the Social Adaptation Division of the Ministry of Justice reported 12,819 persons under its supervision, including 7,459 jailed prisoners, 812 persons required to spend nights and weekends in jail, 3,999 persons in supervised work programs requiring no jail time, and 549 juveniles.

Conditions at La Reforma prison improved with the expansion and renovation of the young adult facility, designed to house 72 young adult inmates between the ages of 18 and 21.

San Sebastian, where most prisoners in pretrial detention were held, continued to be overcrowded and unsanitary. Because of increases in the number of persons held in preventive detention arising out of court backlogs, the San Sebastian prison was not able to handle adequately the growing inmate population. Medical care at most facilities generally was adequate for routine illnesses and injuries but was inadequate for complex medical issues, such as HIV/AIDS.

While prisoners generally were separated by sex and by level of security (minimum, medium, and maximum), overcrowding sometimes prevented proper separation. As of June the women's prison held 7 percent more inmates than its intended capacity.

Due to overcrowding at the San Sebastian complex, some pretrial detainees were held with convicted prisoners in long-term detention facilities throughout the country.

The government permitted prison visits by international and local independent human rights observers, including representatives from the Office of the Ombudsman. Human rights observers were allowed to speak with prisoners and to prison employees in confidence and without the presence of prison staff or other third parties.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally respected these prohibitions.

Role of the Police and Security Apparatus.—The Ministry of Public Security oversees the Public Force, which comprises the general preventive police force, as well as the Drug Control Police, Border Police, and Coast Guard. Traffic control and law enforcement are administered by the Ministry of Public Works and Transportation. Police forces generally were regarded as effective, and nongovernmental organizations (NGOs) did not perceive corruption to be a serious problem. Each ministry had an internal disciplinary unit to investigate charges of abuse and corruption against its officers. All new police recruits received human rights awareness training as part of their basic training course.

Arrest and Detention.—The law requires issuance of judicial warrants before making arrests, except where probable cause is evident to the arresting officer. The law entitles a detainee to a judicial determination of the legality of the detention during arraignment before a judge within 24 hours of arrest. The law provides for the right to bail, prompt access to an attorney, and prompt access to family members, and the authorities generally observed these rights in practice. Indigents are provided a public attorney at government expense and access to family members, in practice even those with sufficient personal funds were able to use the services of a public defender. With judicial authorization, the authorities are able to hold suspects incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days.

On September 4, a police officer was convicted of unlawful arrest and received a 3-year sentence for the 2001 detention of a citizen of a foreign country, who had been arrested in a case of mistaken identity. Two additional officers and an attorney were acquitted of the charges.

There were no reports of political detainees.

A criminal court may hold suspects in pretrial detention for periods of up to one year, and the court of appeals may extend this period to two years in especially complex cases. The law requires that suspects in pretrial detention have their cases reviewed every three months by the court to determine the appropriateness of continued detention. According to the Ministry of Justice, in December there were 1,602 persons in pretrial detention, representing 12 percent of the prison population.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The legal system faced many challenges, including significant delays in the adjudication of civil disputes and a still growing workload.

The judicial branch of government includes the upper and lower courts, the Judicial Investigative Police, the Office of the Prosecutor, the Office of the Public Defender, forensic laboratories, and the morgue. The lower courts include the courts of first instance and the circuit courts. The Supreme Court is the highest court, with 22 justices known as magistrates. The Legislative Assembly elects those magistrates for 8-year terms, which are renewed automatically unless two-thirds of the assembly opposes such renewal.

Trial Procedures.—The law provides for the right to a fair trial and an independent judiciary generally enforced this right.

All trials, except those that include juvenile defendants, are public. A trial is presided over by a single judge or by a three-judge panel depending on the potential penalties arising from the charges. Trials that involve victims or witnesses who are minors are closed during that portion of the trial where the minor is called to testify. There are no jury trials. Accused persons can select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent. The law provides for detainee and attorney access to government-held evidence, and defendants can question witnesses against them and present witnesses on their behalf. Defendants enjoy a presumption of innocence and, if convicted, have the right of appeal. By year's end the government had not enacted amendments to the law as directed by a 2004 Inter-American Court of Human Rights ruling, that stemmed from a denial of due process case from 1999.

Political Prisoners.—There were no reports of political prisoners, although former presidents Rafael Angel Calderon and Miguel Angel Rodriguez, who were released in October after nearly one year, asserted that their arrests and preventive detentions were politically motivated. In September Calderon asked the Inter-American Commission on Human Rights to review his case. In December he told reporters that the NGO International Society for Human Rights had filed an *amicus curiae* brief which concluded that his detention was politically motivated. The Inter-American Commission on Human Rights' review was still pending at year's end.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution prohibits such practices, and the government generally respected these prohibitions in practice. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in investigations of certain crimes such as genocide, homicide, kidnapping, terrorism, narcotics trafficking, production of pornography, trafficking in persons, and the trafficking of persons for their organs. However, legal guidelines on the use of wiretaps are so restrictive that the use of wiretaps was rare.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Irregular enforcement of property rights and duplicate registrations of title harmed the real property interests of many who believed they held legitimate title to land. Landowners throughout the country suffered occasional squatter invasions; sometimes they received government assistance to evict squatters forcibly from private land.

Officials worked to relocate more than 2 thousand of the 4,500 families living in the squatter development of La Carpio, which was constructed in 1994 pursuant to illegal invasion of government-owned land. In July the Office of the Ombudsman requested governmental action to organize and title the land where feasible and to resettle those residents living on lots too small to be plotted or in dangerous areas. The Office of the Ombudsman reported that the project would take several years to complete. At year's end the government had begun to survey and delineate land plots and to identify the most dangerous areas.

Legal hearings continued in the Bambuzal squatters case, which began in 2004 when a large group of squatters attempted to resettle on private property from which they had been forcibly removed. While many of the families accepted rights to lots near the disputed land, a small group of squatters continued to protest in front of the second circuit courthouse in San Jose. In February a court decision overturned the usurpation conviction of 17 squatters. The landowner and the prosecutor's office subsequently appealed the acquittal to the Supreme Court, which ordered a new trial.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press. Journalists and media company owners continued to criticize outdated legislation that imposed criminal penalties, including lengthy jail sentences, instead of civil fines, for common press infractions and argued that such legislation promoted self-censorship.

Under current law, reporters are not required to reveal the identity of a source in any civil or criminal trial if the source has requested confidentiality. Reporters are allowed to defend themselves against libel charges by claiming that they were merely repeating a story published by foreign media. Libel convictions are punishable with fines or jail time.

The government had not yet modified the law to comply with a 2004 Inter-American Court of Human Rights ruling that the government should reform within a reasonable amount of time the press freedom laws on media prosecution. The ruling arose out of a 1999 conviction of a journalist for defamation.

A 2002 informal prohibition made by President Pacheco, on the placement of paid advertising by government institutions, remained in effect. The law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Media managers reported that it was difficult to comply with provisions of this law. The law outlines a series of "insult laws" that establish criminal penalties of up to three years in prison for those convicted of insulting the honor or decorum of a public official. The law also identifies defamation, libel, slander, and calumny as offenses against a person's honor that can carry criminal penalties. The Inter-American Press Association cited as problems President Pacheco's informal ban on government advertising in *La Nacion* newspaper and stalling of attempts to adopt legislative reforms to press laws.

At year's end the March 2004 separate convictions of 2 journalists with sentences of 30 days and 10 days, respectively, were overturned on appeal. The February 2004

conviction of a third journalist for publishing a story accusing a public employee of misuse of public funds remained on appeal.

At year's end six defendants who were accused during the year of killing and/or illicit association in relation to the 2003 killing of journalist Ivannia Mora awaited trial. The trial was scheduled to begin in May 2006.

In December the trial of 10 defendants arrested in 2004 for the 2001 killing of radio host Parmenio Medina began.

The Commission on Control and Rating of Public Performances rates films and has the authority to restrict or prohibit their showing if it is determined that the films are pornographic or violent in nature, or incite crime or vice. The commission has similar powers over television programs, radio programs, and stage plays. In addition the commission regulates the sale and distribution of written material deemed pornographic, enforcing specific packaging and display regulations. A tribunal reviews appeals of the commission's actions.

On October 31, the Inter-American Commission on Human Rights agreed to review allegations of censorship brought against the rating commission by the owner of a local tabloid magazine that the government closed in May 2004 after the owner printed semi-nude photographs in a 2003 issue without first submitting that issue for the rating commission's review.

In an unrelated case decided in February, *La Nacion* newspaper was found not to have violated the country's antipornography laws in 1999, when it published explicit still images within the context of a movie review.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice.

Although Roman Catholic religious instruction is provided in the public schools, it is not mandatory and students may obtain exemptions from the instruction with the permission of their parents. The school director, the student's parents, and the student's teacher must agree on an alternative course of instruction for the exempted student during the instruction time. Religious education teachers in public schools must be certified by the Roman Catholic Church Conference, which does not certify teachers from other denominations or faiths. In April the public National University alleged that the Catholic Church Conference certification requirement was discriminatory and requested that the Ministry of Public Education reform the teachers' law to allow teachers certified in religious instruction by an entity other than the Roman Catholic Church to teach religion in the public school system.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination including anti-Semitic acts during the year. There was a small Jewish population.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides for these rights, and the government generally respected them in practice. The law requires that adults carry national identification cards at all times. Persons who fail to produce such documents at security checkpoints may be detained until their identity and immigration status are verified.

The constitution prohibits forced internal or external exile, and it was not used in practice.

Protection of Refugees.—The law and a series of executive decrees provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum, and cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The Refugee Department, in the General Directorate of Migration, is in charge of refugee status determination. The law requires refugee applications to be adjudicated within a month of receipt.

There were allegations that immigration and other border officials abused refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and by secret ballot every four years. The independent Supreme Electoral Tribunal ensured the integrity of elections, and the authorities and citizens respected election results. Presidents may seek reelection after sitting out two 4-year terms, and assembly members may seek reelection after at least one term out of office.

Elections and Political Participation.—In the 2002 national elections, Abel Pacheco of the PUSC won the presidency in elections that generally were considered free and fair.

The Supreme Electoral Tribunal requires that a minimum of 40 percent of candidates for elective office be female and that women's names be placed accordingly on the ballots by party slate. The first vice president (who was also the minister of the presidency), the minister of child and adolescent issues, the minister of health, the minister of justice, and the minister of women's affairs were women. There were 20 women in the 57-seat Legislative Assembly, including 9 legislative committee chairwomen.

Indigenous people did not in practice play significant roles in politics or government except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. There were no indigenous members in the Legislative Assembly.

There were three black members in the assembly. There were no minority members in the cabinet.

Government Corruption and Transparency.—Transparency International noted an increase in perceived corruption compared with 2004. There continued to be allegations of corruption against the executive branch. In October two former presidents, Rafael Angel Calderon and Miguel Angel Rodriguez, were released from house arrest after each spent one year in custody but they remained under investigation for separate and unrelated cases of suspected corruption (see section 1.e). Former President Jose Maria Figueres Olsen remained in Switzerland despite a standing request by the Legislative Assembly for his return to answer questions regarding kickbacks received by his former company. In May the press criticized President Pacheco for receiving gifts from foreign business persons, including those seeking tourism development rights from the government.

During the year two legislative committees charged with investigating allegations of campaign finance irregularities in the 2002 elections ended their investigations with no conclusive results. The committees' reviews revealed that, although the alleged actions, if proven, would violate existing law, the law contained no penalties for the proscribed actions.

There were no new developments reported in the 2004 corruption investigation of the former president and board of directors of the Costa Rican Social Security Fund.

The law provides for public access to government information, and the government generally respected this right. Government institutions published reports that detailed the year's activities. On May 5, the ombudsman's office launched a web page dedicated to further enhancing transparency by improving citizen's access to public information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Various domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government generally effectively enforced these prohibitions.

Women.—The government continued to identify domestic violence against women and children as a serious and growing societal problem. The law prohibits domestic violence and provides measures for the protection of domestic violence victims. Criminal penalties range from 10 to 100 days in prison for aggravated threats and up to 35 years in prison for aggravated homicide. Between January and December, the autonomous National Institute for Women (INAMU) provided assistance to 6,967 women, including counseling and lodging for battered women in INAMU shelters. During that same period, INAMU reported that 35 women and girls were

killed in incidents of domestic violence, compared with 20 victims during 2004. INAMU also maintained a domestic abuse hotline. During the year authorities arrested more than 9,300 suspects for domestic violence, representing a 24 percent increase compared with 2004.

The Office of the Special Prosecutor for Domestic Violence and Sexual Crimes for the San Jose area investigated 1,118 cases.

The Law Against Domestic Violence established a number of victims-assistance mechanisms including basic training for new police personnel on handling domestic violence cases, that required public hospitals to report cases of domestic violence against women, and denied perpetrators possession of the family home in favor of the victim. The public prosecutor, police, and ombudsman had offices dedicated to this problem.

The law defines various types of rape and provides sanctions dependent upon a victim's age and other factors such as an assailant's use of violence or position of influence over the victim. The law provides for sanctions from 10 to 18 years in prison for rape and 2 to 10 years in prison for statutory rape. The judiciary effectively enforced rape law and provided due process for both victim and defendant. According to the INAMU, the rape law applies in the same manner to spousal rape, although spousal rape cases are much more difficult to prove. INAMU reported that there have been only three convictions for spousal rape.

Through September 2004 judicial authorities reported approximately 5,708 cases of sex crimes. Approximately 17 percent of the prison population was serving sentences as a result of convictions related to sex crimes. Adolescent girls between 14 and 16 years of age were particularly vulnerable, and constituted the largest single age group of rape victims. During the year, 91 rape cases were reported by 14 to 16 year old girls, out of 424 cases reported to OIJ Police. Authorities acknowledged that many known rape cases were not investigated due to reluctance by the victim or family of the victim to press charges against perpetrators.

Prostitution is legal for persons over the age of 18, and was practiced openly throughout the country, particularly in areas with heavy concentrations of tourists. The penal code prohibits individuals from promoting or facilitating the prostitution of individuals of either sex, regardless of the individual's age, and the penalty is increased if the victim is under the age of 18. There are no specific laws against sex tourism, which was growing; however, law enforcement agencies initiated investigations under existing legislation that prohibits the promotion of prostitution. The government and several advocacy groups also initiated awareness campaigns publicizing the dangers of sex tourism and its association with child sexual exploitation (see section 5, Trafficking in Persons).

The law prohibits sexual harassment in the workplace and educational institutions, and the Ministry of Labor generally enforced this prohibition. The law imposes penalties ranging from a letter of reprimand to dismissal, with more serious incidents subject to criminal prosecution. Through July the ombudsman's office received 40 complaints of sexual harassment in the workplace.

The Law for the Promotion of the Social Equality of Women prohibits discrimination against women and obligates the government to promote political, economic, social, and cultural equality. The government maintained offices for gender issues in most ministries and parastatal organizations. The Ministry of Labor was responsible for investigating allegations of gender discrimination. INAMU implemented programs that promoted gender equality and publicized the rights of women.

According to a UN Development Program report issued during the year, women over age 15 represented 38 percent of the labor force. Approximately 80 percent worked in the service sector, 15 percent in industry, and 4 percent in agriculture. Women occupied 45 percent of professional and technical positions and 30 percent of legislative, senior official, and managerial positions. The law requires that women and men receive equal pay for equal work. The estimated earned income for women was approximately 78 percent of the earned income for men.

Children.—The government was committed to children's rights and welfare through systems of public education and medical care. Primary education is compulsory, free, and universal. The law requires six years of primary and three years of secondary education for all children, and attendance is required until age 15.

The Ministry of Education reported that the estimated primary school dropout rate was 3.3 percent, and the secondary school dropout rate was 11.6 percent; these figures were based on actual registration per school year and did not reflect students who did not register at the beginning of the school year. In contrast, the UN Children's Fund reported that approximately 40 percent of primary school students never entered secondary school, and that 35 percent of secondary school students dropped out before graduation.

The law provides equal access to education and health care services to all minors, regardless of gender or legal residency status.

In recent years the autonomous National Institute for Children (PANI) increased public awareness of abuse of children, which remained a problem. From January 1 to June 30, PANI assisted 6,562 children and adolescents, including 2,860 cases of physical abuse, 2,171 cases of sexual abuse, 986 cases of psychological abuse, and 545 cases of substance abuse. Traditional attitudes and the inclination to treat sexual and psychological abuse as misdemeanors at times hampered legal proceedings against those who committed crimes against children.

In September a court found the government liable for damages in the 1992 rape of a 12-year-old student by her teacher, that resulted in the minor's pregnancy, and awarded the victim \$110 thousand (53 million colones).

The government, security officials, and child advocacy organizations acknowledged that the commercial sexual exploitation of children remained serious problems (see section 5, Trafficking). PANI estimated that three thousand children suffered from commercial sexual exploitation and street children in the urban areas of San Jose, Limon, and Puntarenas were particularly at risk. During the year PANI reported that it provided assistance to minors in 120 separate cases of commercial sexual exploitation.

The law provides special occupational protection for minors and establishes a minimum working age of 15 years. Child labor was a problem mainly in the informal sector of the economy (see section 6.d.).

Trafficking in Persons.—Although the law prohibits the trafficking of women and minors for the purpose of prostitution or forced labor, there is no comprehensive legislation to address all forms of trafficking. The lack of a comprehensive antitrafficking law inhibited the government's ability to prosecute and convict traffickers, and prosecutors relied on several criminal statutes to bring traffickers to justice. There were reports that persons were trafficked to, from, and within the country, most often for commercial sexual exploitation.

The law provides for sentences of between 2 and 10 years' imprisonment for anyone who engages in sex with a minor and between 4 and 10 years' imprisonment for managing or promoting child prostitution. The Office of the Special Prosecutor for Domestic Violence and Sexual Crimes for the San Jose Area raided 7 brothels as part of the investigation of commercial sexual exploitation cases, and conducted 15 raids related to cases of sexual exploitation of minors. The raids resulted in the arrest of 12 suspects, who remained in preventive detention awaiting trial, and 6 suspects with other preventive measures.

During the year the Judicial Investigative Police created a new investigative unit dedicated solely to trafficking in persons. By year's end the government secured 10 convictions among the different prosecutors' offices for trafficking-related offenses. Hundreds of investigations into the commercial sexual exploitation of children were initiated, but few resulted in successful prosecution as a result of governmental inefficiency and inability to protect witnesses. Minimal coordination among government offices responsible for trafficking-related offenses also frustrated enforcement efforts.

Government agencies responsible for combating trafficking and child sexual exploitation included the special prosecutor on domestic violence and sex crimes, the judicial investigative police, the national institute for children, the foreign ministry, the labor ministry, the public security ministry, and the tourism ministry.

Cases of trafficking involved persons from Cuba, Guatemala, Peru, Ecuador, Colombia, the Dominican Republic, Panama, Nicaragua, the Philippines, China, Russia, and countries of Eastern Europe. While evidence suggested that most trafficked persons remained in the country, some transited to Canada, Mexico, and the United States. Some female citizens, generally from impoverished backgrounds, also were trafficked to Canada, Mexico, and the United States. Traffickers often recruited victims with a promise of secure employment and good pay.

There were reports of corruption among immigration officials involving trafficking in persons along the country's borders, but the Immigration Directorate reported that no disciplinary actions were taken.

A governmental Inter-Ministerial Group on Trafficking made efforts to raise awareness of trafficking issues and sexual exploitation of children and to encourage law enforcement and prevention measures, particularly at the local level; however, these efforts were hampered by a lack of resources.

While there were limited formal mechanisms specifically designed to aid trafficked victims, the government offered indirect assistance, such as stay-in-school programs, to child victims of trafficking. Foreign victims were not granted temporary or permanent residence status and often were deported immediately to their country of origin.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, health care access, or provision of other state services, and there were no reports of individual, intentional discrimination against persons with disabilities in education or in the provision of other state services. There were two reports of discrimination in rural areas involving access to rehabilitative health care. There were no reports of employment discrimination, but the ombudsman's office reported to the Legislative Assembly that, due to poor facilities access and entrenched business practices, unreported discrimination occurred.

Although a 1996 law mandates access to buildings for persons with disabilities and establishes a 10-year deadline for the government to make necessary installations and upgrades, the government did not enforce this provision in practice, and many buildings remained inaccessible to persons with disabilities. Public transportation services were almost entirely inaccessible to wheelchair-bound passengers.

The Ministry of Education operated a program for persons with disabilities, including a national resource center that provided parents, students, and teachers with advanced counseling, training, and information services. The ministry reported that 14,033 special education students were registered in the school system during the year, and there were 537 special education centers to assist special education students and students with disabilities. In addition 1,040 primary and secondary schools had programs to provide some support to students with disabilities.

National/Racial/Ethnic Minorities.—The country's 100 thousand blacks, who mostly resided in Limon Province, enjoyed full rights of citizenship, including the protection of laws against racial discrimination. There were no reports with the ombudsman's office of racial discrimination against blacks. Approximately 15 percent of the permanent population was foreign-born. There were sporadic reports of discrimination, usually directed against Nicaraguans, but there were no government-endorsed patterns of discrimination. Undocumented illegal immigrants were sometimes denied discretionary or long-term medical care because they were not participants in the national health care insurance program.

Indigenous People.—Indigenous people, comprising nearly 64 thousand persons among 8 ethnic groups, accounted for approximately 1 percent of the population. While indigenous persons were not subject to official discrimination, social and health network gaps diminished their quality of life. Approximately 73 percent of the indigenous population lived in traditional communities on 24 reserves, which, because of their remote locations, often lacked access to schools, health care, electricity, and potable water. Few government health care facilities had been established in indigenous reserves. The law nominally protects reserve land as the collective, nontransferable property of the indigenous communities. Some indigenous landowners, however, sold their land to pay off debts, sometimes illegally to non-indigenous people. The ombudsman had a unit dedicated to investigating violations of the rights of indigenous people and sought to return reserve land to indigenous groups.

At year's end an unknown number of nonindigenous property owners continued to hold title to land on reserves legally set aside for indigenous occupation. The law requires that the government purchase all pre-existing land titles within the reserves in order to secure exclusive use and ownership rights for the indigenous populations.

Other Societal Abuses and Discrimination.—Although there are no laws prohibiting discrimination against persons based on sexual orientation, discrimination based on HIV/AIDS in health care, employment, and education was prohibited by law and by presidential decree. The ombudsman's office received no reports of complaints of such discrimination during the year.

Section 6. Worker Rights

a. The Right of Association.—The law specifies the right of workers to join unions of their choosing without prior authorization, and workers exercised this right in practice. The law also provides for the right not to join a union and to leave a union and accordingly prohibits any action that might infringe that right. The Ministry of Labor reported that approximately 9 percent of workers were unionized.

Some trade union leaders contended that the existence of worker "solidarity associations" in some enterprises displaced unions and discouraged collective bargaining. The law prohibits these non-dues-collecting associations from representing workers in collective bargaining negotiations or in any other way that assumes the functions of or inhibits the formation of trade unions. Solidarity associations offered membership services, including credit union programs, matching-fund savings accounts, and

low-interest loans. Approximately 330 thousand workers were members of solidarity associations, 95 percent of whom worked in the private sector.

Although the law provides protection from dismissal for union organizers and members during union formation, including reinstating workers fired for union activities, enforcement was lax, and employers often failed to comply with this provision in practice. In its annual report, the International Labor Organization Committee of Experts identified as a problem "slow and ineffectual procedures for penalties and redress in the event of antiunion acts." In addition the International Confederation of Free Trade Unions Annual Survey states that there is no legal mechanism to oblige an employer to comply with a court order to reinstate a fired worker. Workers who are denied reinstatement under a court decision must file a new action with the labor court.

During the year the Center for Alternative Resolution of Labor Disputes handled 4,200 cases, some 37 percent of which resulted in an agreement between the parties. Year-end statistics indicated a relatively high settlement rate when both employer and employee attended the hearing; with both parties present, two-thirds of the cases reached successful resolution.

To reduce backlogs caused by the lengthy labor dispute resolution process, the Ministry of Labor trained arbitrators and educated workers and unions on labor rights, and the Supreme Court undertook a large-scale labor reform project.

b. The Right to Organize and Bargain Collectively.—Workers exercised the constitutional right to organize and the right to voluntary collective bargaining. Foreign nationals are expressly prohibited from exercising direction or authority in unions. There are no special laws or exemptions from regular labor laws in export processing zones.

The law requires employers to initiate the bargaining process with a trade union if at least 34 percent of the workforce requests collective bargaining, and the government enforced this law in practice.

Although private sector unions had the legal right to engage in collective bargaining with employers, direct bargaining arrangements between employers and unorganized workers occurred more commonly. As of October the Ministry of Labor reported 19 new collective agreements and 7 new direct agreements.

The law provides for the right to strike, and workers exercised this right in practice; however, unions complained of burdensome administrative requirements in order for a strike to be legal. The law requires that at least 60 percent of the workers in the enterprise support strike action. Pursuant to a constitutional court ruling, restrictions on the right to strike apply only to essential services that concern the national economy or public health.

In October the Water and Sewage Institute staged a strike to demand higher wages. Workers complained that they were the lowest paid of all government entities, with many employees earning less than the federally mandated minimum wage. Administrative functions, including connecting or disconnecting residential water service, were disrupted during the strike. On November 10, the national labor tribunal declared the strike illegal and the employees accepted a 9.8 percent salary increase.

On July 11, a group of municipal trash collectors went on strike to demand higher salaries and renewal of school tuition benefits. After labor court judges declared the strike illegal, the mayor fired 67 striking workers on August 19. That same day the workers filed an injunction with the Constitutional Chamber of the Supreme Court, and 12 of them launched a hunger strike. On August 23, the court ordered the workers temporarily reinstated pending a review of the case, which was pending at year's end.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides special occupational protection for minors and establishes a minimum working age of 15 years. Adolescents between the ages of 15 and 18 may work for a maximum of 6 hours daily and 36 hours weekly with special permission from PANI. The law prohibits night work and overtime for minors. Certain activities considered to be unhealthy or hazardous typically require a minimum age of 18. In addition minors are entitled to facilities allowing them to attend educational establishments through school arrangements and timetables adapted to their interests and employment conditions, and to participate in apprenticeship training programs.

The Ministry of Labor, in cooperation with PANI, generally enforced these regulations effectively through inspections in the formal sector; the regulations were not

effectively enforced in the informal labor sector as a result of inadequate resource allocations by the government.

Child labor continued to be a problem in formal and informal agricultural operations and in informal activities such as domestic work and family-run enterprises. Child prostitution and other types of child sexual exploitation remained serious problems (see section 5).

The Ministry of Labor maintained an Office for the Eradication of Child Labor (OATIA), which was responsible for coordinating government efforts and programs targeted at child labor. In June OATIA presented its second national plan of action for the eradication of child labor, designed to eliminate child labor within five years, and which contains built-in financing that requires each participating government agency to include program funding in its annual budget.

During the year the government continued to provide small loans and economic aid to families with at-risk children and scholarships for poor families to cover the indirect costs of attending school. In July the Ministry of Education initiated a new child labor education campaign to remove children from work and return them to school. OATIA reported that, through October, it had registered 850 children working under the legal age. Working in coordination with the Ministry of Education, the Ministry of Labor removed these children from the work environment and placed them in schools.

e. Acceptable Conditions of Work.—The law provides for a minimum wage, which is set by the National Wage Council. Monthly minimum wages for the private sector ranged from approximately \$150 (72,586 colones) for domestic employees to approximately \$588 (285,635 colones) for university graduates. The Ministry of Labor effectively enforced minimum wages in the San Jose area, but was not generally effective in enforcing the wage laws in rural areas, particularly those where large numbers of migrants were employed. The national minimum wage did not provide a decent standard of living for a worker and family.

The constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Workers generally may work a maximum of 48 hours weekly. While there is no statutory prohibition against compulsory overtime, the Labor Code stipulates that the workday may not exceed 12 hours under any circumstances. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers did not receive overtime pay if they worked voluntarily beyond their normal hours. Hourly work regulations generally were enforced in the formal labor market in San Jose but were enforced poorly in rural areas and in the informal sector.

While the ministries of labor and health shared responsibility for drafting and enforcing occupational health and safety standards, they did not enforce these standards effectively as a result of inadequate allocation of government resources. The law requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the government to inspect workplaces and to fine employers for violations. Most firms subject to the law established such committees, but they either did not use the committees or did not turn them into effective instruments for improving workplace conditions. Resource constraints continued to hinder the Inspection Directorate's ability to carry out its inspection mandate. Workers who consider a work condition to be unhealthy or unsafe must make a written request for protection from the Ministry of Labor or the Ministry of Health in order to remove themselves from the condition without jeopardizing their continued employment.

CUBA

Cuba, with a population of 11 million, is a totalitarian state led by a president, Fidel Castro, whose regime controls all aspects of life through the Communist Party (CP) and its affiliated mass organizations, the government bureaucracy, and the state security apparatus. Although civilian authorities generally maintained effective control of the security forces, the Ministry of Interior is the principal instrument of state security and control, and officers of the Revolutionary Armed Forces, which are led by the president's brother, have occupied most key positions in the ministry during the past 15 years.

The government's human rights record remained poor, and the government continued to commit numerous, serious abuses. At least 333 Cuban political prisoners and detainees were held at year's end. The following human rights problems were reported:

- denial of citizens' rights to change their government
- beatings and abuse of detainees and prisoners, including human rights activists, carried out with impunity
- transfers of mentally healthy prisoners to psychiatric facilities for political reasons
- frequent harassment of political opponents by government-recruited mobs
- extremely harsh and life-threatening prison conditions, including denial of medical care
- arbitrary arrest and detention of human rights advocates and members of independent professional organizations
- denial of fair trial, particularly to political prisoners
- interference with privacy, including pervasive monitoring of private communications
- severe limitations on freedom of speech and press
- denial of peaceful assembly and association
- restrictions on freedom of movement, including selective denial of exit permits to thousands of citizens
- refusal to recognize domestic human rights groups or to permit them to function legally
- domestic violence, underage prostitution, and sex tourism
- discrimination against persons of African descent
- severe restrictions on worker rights, including the right to form independent unions

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings. However, the Cuba Archive human rights project noted in November that foul play was likely in many prison deaths recorded as “heart attacks.”

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits abusive treatment of detainees and prisoners; however, members of the security forces sometimes beat and otherwise abused human rights advocates, detainees, and prisoners, particularly political prisoners, and did so with impunity.

Authorities often subjected detainees and prisoners to repeated, vigorous interrogations designed to coerce them into signing incriminating statements or to force their collaboration with authorities. Some endured physical and sexual abuse, typically by other inmates with the acquiescence of guards, or long periods in isolation or punishment cells.

On February 19, a “reeducation specialist” forced political prisoner Fidel Garcia Roldan into a cell, pushed him against the wall, then hit him repeatedly in the head.

On March 2, Juan Carlos Herrera Acosta, a prisoner at Kilo 8 prison in Camaguey, was handcuffed and dragged more than 120 feet across the floor of the prison; he suffered severe cuts and abrasions. As of that date, Herrera Acosta had not been exposed to sunlight for more than one year.

Throughout March and April, authorities subjected political prisoner Jose Daniel Ferrer Garcia to deafeningly loud music and noise from a speaker placed by the guards at the entrance to his cell from the early morning until late each night; as of April 28, he had been denied exposure to sunlight for seven months.

In August a prison guard beat dissident Arnaldo Ramos Lauzurique. On September 26, a guard at Camaguey’s Kilo 8 prison punched and broke the nose of political prisoner Lamberto Hernandez Plana, following his refusal to stand for a lineup of inmates. The government knowingly sent mentally healthy prisoners to psychiatric hospitals or the psychiatric ward of a prison hospital. For most of the year, Dr. Luis Milan Fernandez, a political prisoner with no known mental ailment, was held at the psychiatric ward of the Boniato prison in Santiago. Dr. Milan was forced to share a cell with prisoners suffering from severe mental illness. In February the government regained custody of academic Orlando Vallin Diaz, who had escaped from a psychiatric hospital months earlier. Vallin had been sent to the hospital after serving approximately three months in prison for alleged drug trafficking; family

members denied that Vallin had ever been involved with drugs or shown any sign of mental illness.

The government continued to subject persons who disagreed with it to “acts of repudiation.” At government instigation members of state-controlled mass organizations, fellow workers, or neighbors of victims staged public protests against those who dissented from the government’s policies by shouting obscenities and causing damage to the homes and property of those targeted. Physical attacks on victims or their family members sometimes occurred. Police and State Security agents often were present but took no action to prevent or end the attacks. Those who refused to participate in these actions faced disciplinary action, including loss of employment.

Prison and Detention Center Conditions.—Prison conditions continued to be harsh and life threatening. Conditions in detention facilities also were harsh. Prison authorities frequently beat, neglected, isolated, and denied medical treatment to detainees and prisoners, particularly those convicted of political crimes or those who persisted in expressing their views. Authorities also often denied family visitation, adequate nutrition, exposure to natural light, pay for work, and the right to petition the prison director.

Prisoners sometimes were held in “punishment cells,” which usually were located in the basement of a prison, with continuous semi-dark conditions, no available water, and only a hole for a toilet. Reading materials, including Bibles, were not allowed. Prison officials regularly denied prisoners other rights, such as the right to correspondence. Some prison directors routinely denied religious workers access to detainees and prisoners.

In November the Cuban Commission for Human Rights and National Reconciliation denounced the worsening health of dozens of political prisoners, stating that more prisoners suffered from dangerous diseases due to the “generally subhuman and degrading conditions” in which they were held.

Power and water cuts were frequent at prisons, and inmates often suffered from extreme heat. At Havana’s Combinado Del Este prison, disturbances were reported after allegations surfaced that prison authorities sold gas for personal profit.

Victor Rolando Arroyo, an independent journalist serving a 26-year prison term, described his cell in Guantanamo provincial prison as a space approximately 11 feet by 34 feet, where 34 people slept on three-tiered bunks. The cell was dimly lit; there were no cleaning supplies; and water, which flowed sporadically, had a disagreeable color, odor, and taste.

The government regularly failed to provide adequate nutrition and medical attention; according to Human Rights Watch (HRW), prisoners typically lose weight during incarceration. Pedro Pablo Pulido Ortega stated that he and other prisoners at Guamajal prison in Santa Clara received only cornmeal for lunch and one small portion of potatoes for dinner.

Prisoner of conscience Blas Giraldo Reyes Rodrigues experienced medical problems for two months before authorities on May 3 transferred him to an infirmary where tests indicated he had been suffering from an infection.

On August 2, Bertha Antunez Pernet reported that authorities at Kilo 7 prison in Camaguey Province retaliated against her brother, Jorge Luis Garcia Perez, who had criticized prison conditions, by denying him medication for a respiratory condition.

There were occasional reports of prisoners dying as a result of violence by fellow prisoners, but no statistics were available. On April 4, Freddy Ibanez Blanco died from burns suffered in a prison uprising at Havana’s Combinado del Este prison.

There were also occasional reports of suicide attempts by prisoners, but no statistics were available. In November political prisoner Mario Enrique Mayo twice attempted suicide.

Human rights activists alleged that prison authorities used “thugs” within the general prison population to harass political prisoners.

Sexual assault occurred at men’s prisons, but the government did not disclose such incidents. In July an inmate at Aquadores prison beat and raped Orlando Rodriguez Salazar, who was denied medical attention except for a sedative.

Although officials sought to separate the juvenile and adult prisoners, juveniles sometimes were held in the same facilities as adults. Although pretrial detainees generally were held separately from convicted prisoners, some long-term detainees, including political detainees, were held with convicted prisoners.

The government did not permit independent monitoring of prison conditions by international or national human rights groups. The government has denied prison visits by the International Committee of the Red Cross since 1989.

d. Arbitrary Arrest or Detention.—Although prohibited by law, arbitrary arrest and detention were abuses effectively and commonly used by the government to harass opponents.

Role of the Police and Security Apparatus.—The Ministry of the Interior exercises control over police and internal security forces. The National Revolutionary Police (PNR) is the primary law enforcement organization and generally was effective in investigating common crimes. Specialized units of the Ministry of the Interior are responsible for monitoring, infiltrating, and suppressing opposition political groups. The PNR plays a supporting role by carrying out house searches and providing interrogation facilities for State Security agents. There were reports in both the independent and official press of corruption within the security forces.

Members of the security forces acted with impunity in committing numerous, serious human rights abuses. While the PNR ethics code and Interior Ministry regulations ban police brutality, the government did not announce any investigations into police misconduct during the year.

Arrest and Detention.—The police have broad detention powers, which they may exercise without a warrant. Under the law, police can detain without a warrant not only persons caught in the act, but someone merely accused of a crime against state security. The law requires police to file formal charges and either release a detainee or bring the case before a prosecutor within 96 hours of arrest; it also requires authorities to provide suspects with access to a lawyer within 7 days of arrest.

In practice the law was not respected. At least 39 political detainees were held at year's end without formal charges. Among them was Maximo Pradera Valdez, arrested in 2001 and still held without formal charge at year's end. On May 13, authorities in Havana detained six human rights activists, including Rene Montes de Oca Martija and Lazaro Alonso Roman, in connection with a peaceful demonstration; at year's end several of the activists remained in detention, and no formal charges had been brought. On June 22, police in Havana took into detention nine human rights activists, including Rene Gomez Manzano, Julio Cesar Lopez Rodriguez, and Jesus Alberto Reyes Sanchez, in connection with a peaceful demonstration; at year's end all remained in detention, and none had been charged.

Bail was available, although typically not in cases involving antigovernment activity. Time in detention before trial counted toward time served if convicted. The government denied prisoners and detainees prompt access to family members.

The law provides that all legally recognized civil liberties may be denied to anyone who actively opposes the decision of the people to build socialism. The authorities routinely invoked this authority to deny due process to persons detained on purported state security grounds. The authorities routinely engaged in arbitrary arrest and detention of human rights advocates. Police frequently lacked warrants when carrying out arrests or issued warrants themselves at the time of arrest. Authorities sometimes employed false charges of common crimes to arrest political opponents and often did not inform detainees of the charges against them. The authorities continued to detain human rights activists and independent journalists for short periods, including house arrest, often to prevent them from attending or participating in events related to human rights issues (see sections 2.a. and 2.b.).

The Penal Code includes the concept of "potential dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to therapy or political reeducation. Government authorities regularly threatened prosecution under this provision.

During the year authorities arrested at least 53 persons for democratic or political activity; at year's end all remained in custody, and 18 of them were still awaiting trial. At year's end there were at least 39 political detainees awaiting trial, of whom 18 were detained during the year.

On April 27, the government convicted the remaining 23 citizens who had been detained since 2002 for breaking into the Mexican Embassy and requesting asylum. The individuals were sentenced to prison terms ranging from 4 to 18 years.

On July 12, the government arrested several members of the Las Marianas opposition group as they prepared to undertake a 6-day hunger strike to compel the government to release non-violent dissidents from prison.

The government did not permit access to political detainees by international humanitarian organizations.

Authorities sometimes detained independent journalists to question them about contacts with foreigners or to prevent them from covering sensitive issues or criticizing the government (see section 2.a.). After months of detention, the government often released activists without charges.

e. Denial of Fair Public Trial.—While the constitution provides for independent courts, it explicitly subordinates them to the National Assembly of People's Power (ANPP) and the Council of State. The ANPP and its lower level counterparts choose all judges. Thus, in practice the CP influenced the courts.

Civilian courts existed at the municipal, provincial, and appellate levels. Panels composed of professionally certified and lay judges presided over them.

Trial Procedures.—The courts undermined the right to a fair trial by restricting the right to a defense and often failed to observe the due process rights nominally available to defendants. While most trials were public, trials were closed when there were alleged violations of state security. Almost all cases were tried in less than one day; there were no jury trials. The law provides the accused with the right to an attorney and, except in cases involving state security, the right to consult an attorney in a timely manner, but many defendants met their attorney only minutes before the start of their trial.

Moreover, the government's control over members of the lawyers' collectives compromised their ability to represent clients, especially those accused of state security crimes.

Criteria for presenting evidence, especially in cases involving human rights advocates, were arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, was the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer. A defendant's right to present witnesses was only arbitrarily observed.

Prosecutors may introduce testimony from a member of the neighborhood-based Committee for the Defense of the Revolution (CDR) about the revolutionary background of a defendant, which may contribute to a longer or shorter sentence. The law presumes the innocence of the accused, but the authorities often ignored this right in practice. The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases involving maximum prison terms or the death penalty. Appeals in capital cases are automatic. The Council of State ultimately must affirm capital punishment.

On August 9, independent journalist Lamasiel Gutierrez was tried for "dangerousness" and sentenced to seven months of house arrest. During her trial, 25 uniformed personnel filled the courtroom. She was denied the right to speak on her own behalf during the proceedings, and was not allowed to consult with counsel.

On July 22, Rene Gomez Manzano, one of the leaders of the Assembly for the Promotion of Civil Society, was arrested and jailed indefinitely. The government refused the request of Manzano, who is an attorney by profession, to represent himself and insisted that he accept another attorney.

Military tribunals, which are governed by a special law, assumed jurisdiction for certain "counterrevolutionary" cases. The military tribunals tried civilians if a member of the military was involved with civilians in a crime. In these tribunals, there was a right to appeal, access to counsel, and the charges were made known to the defendant.

Political Prisoners.—The Cuban Commission for Human Rights stated that the government held, in addition to political detainees, at least 294 political prisoners at year's end; 45 of them were convicted of terrorism and 33 of "dangerousness." The authorities incarcerated persons for such offenses as disrespect of the head of state (Fermin Scull Zulueta, three years), disrespect and scorn of patriotic symbols (Antonio Velazquez Hernandez, two years), public disorder (Orlando Zapata Tamayo, three years), and attempt to leave the country illegally (Osolanis San Miguel Rodriguez, three years). Other charges included disseminating enemy propaganda, illicit association, clandestine printing, or the broad charge of rebellion, which often was brought against advocates of peaceful democratic change. Between two thousand and five thousand teenagers were serving sentences for the crime of "potential dangerousness, with sentences ranging up to five years' imprisonment.

At year's end 60 of the 75 peaceful human rights activists, journalists, and opposition political figures arrested and convicted in 2003, mostly on charges of violating national security and aiding a foreign power, remained in prison.

Political prisoners often were held at facilities hundreds of miles from their families, making family visits more difficult. Prison conditions prompted some political prisoners to carry out lengthy hunger strikes. On October 5, dissidents Victor Arroyo and Felix Navarro ended their hunger strikes at the penal ward of a Guantanamo hospital prison after 24 days and 18 days, respectively. They were protesting actions of a "re-educator" who had seriously injured Arroyo's leg. Prison staff and inmates (at the instigation of prison staff) often targeted political prisoners for abuse (see section 1.c.). Political prisoners, such as independent journalist Fabio Prieto Llorente and Diosdado Gonzales Marrero, were held among the general pris-

on population. Conversely, political prisoner Adolfo Fernandez, although held with the general population, reported that he was prevented from interacting with other prisoners in the cafeteria and forced to eat all meals alone in his cell. Some political prisoners preferred to stay in their cells to avoid contact with prison guards. In November, following three hunger strikes, political prisoner and attorney Mario Enrique Mayo, serving a 20-year sentence in Holguin, carved "innocent" and "liberty" into his body. The government released Mayo on December 1.

The government continued to deny human rights organizations and the International Committee of the Red Cross access to political prisoners. Authorities denied visits to families of political prisoners while they were held in "punishment cells." Prisoners in punishment cells had no access to lawyers.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—While the constitution provides for the inviolability of a citizen's home and correspondence, official surveillance of private and family affairs by government-controlled organizations, such as the CDRs, remained pervasive. The government employed physical and electronic surveillance against nonviolent political opponents. The state assumed the right to interfere in the lives of citizens, even those who did not actively oppose the government and its practices. The authorities employed a wide range of social controls to discover and discourage nonconformity.

The Ministry of Interior employed a system of informants and the CDR block committees to monitor and control public opinion. While less capable than in the past, CDRs continued to report on suspicious activity, including: conspicuous consumption; unauthorized meetings, including those with foreigners; and defiant attitudes toward the government and the revolution.

Between January and March, CDR members harassed Havana resident Noemi Arias Noe and her husband and teenage son following their unsuccessful attempt to flee the country. CDR members left a threatening sign on their door and pounded on the family's front door; Arias said neighbors broke down a common door to intimidate the family. Arias and her husband received more than 10 police citations related to their attempted migration and were obliged to appear before the local police chief twice monthly.

Authorities occasionally threatened parents with the loss of custody of their children for taking part in "counterrevolutionary" activities. On August 19, a police officer visited the Havana home of Carla Vismari Santa Leon, a pro-democracy activist, and warned her mother that Carla and her activist husband could lose custody of their 2-year-old son unless they halted their activities.

The government controlled all access to the Internet and took steps to censor all electronic mail, disallowing any attachments (see section 2.a.). State Security often read international correspondence and monitored overseas telephone calls and conversations with foreigners. The government also monitored domestic phone calls and correspondence and sometimes denied telephone service to dissidents. State Security agents subjected journalists to harassment and surveillance, including electronic surveillance and surreptitious entry into their homes (see section 2.a.).

In March Lourdes Esquivel Vieyto reported that prison officials refused to give her letters written by her imprisoned husband during February.

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana and other major cities. On March 11, officials informed Barbaro Sanchez and two of his neighbors that they had to abandon their residences in Santiago de Cuba the next day. On March 12, officials demolished the homes because they were built without proper authorization, albeit on property owned by Mr. Sanchez and his neighbors.

On July 14, officials evicted Moises Leonardo and Roberto de Jesus Guerra, two members of the extralegal human rights organization Corriente Martiana from a fellow dissident's home on the grounds that the law prohibits citizens from changing residence without state approval.

The government sometimes punished family members for the activities of their relatives. On February 23, authorities expelled from school tenth-grade student Ernesto Luis Roque Veitia, the son of independent journalists Anna Rosa Veitia and Ernesto Roque. The stated reason for the expulsion was Roque Veitia's refusal to participate in a work brigade.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press insofar as they "conform to the aims of socialist society," a clause effectively barring free speech, and in practice the government did not allow criticism of the revolution or its leaders. Laws against antigovernment propaganda, graffiti, and disrespect of officials impose penalties between three months and one year in prison; criticism of the president or members of the ANPP or Council of

State is punishable by three years' imprisonment. Disseminating "enemy propaganda," which included expressing opinions at odds with those of the government, is punishable by up to 14 years' imprisonment.

The government considers such materials as the Universal Declaration of Human Rights, international reports of human rights violations, and mainstream foreign newspapers and magazines to be enemy propaganda. Local CDRs inhibited freedom of speech by monitoring and reporting dissent or criticism.

Police and State Security officials regularly harassed, threatened, and otherwise abused human rights advocates in public and private to intimidate them. The government subjected dissenters to "acts of repudiation." The government also obliged members of state-controlled mass organizations, co-workers, or neighbors of victims to stage public protests against those who dissented from the government's policies, for instance, by shouting obscenities and often causing damage to the homes and property of those targeted. Physical attacks on the victims and their family members sometimes occurred. Police and State Security agents often were present but took no action to prevent or end the attacks. Those who refused to participate in these actions faced disciplinary action, including loss of employment.

On March 19, four men forced their way into the home of dissident doctor Darsi Ferrer. They attacked him with a knife, seriously lacerated his right hand, and beat and threatened to kill him.

On May 8, a progovernment mob confronted and threatened the Ladies in White, spouses of political prisoners, as they took their weekly stroll after attending mass at Havana's Santa Rita church. Plainclothes government agents were visible at the scene.

On August 6, police arrested Albert Santiago DuBouchet, director of the independent Havana Press agency. He was subsequently sentenced to one year in prison for disrespect and resistance, a decision condemned by the Committee to Protect Journalists.

On September 16, in Santa Clara approximately 60 members of a progovernment mob struck independent journalist Guillermo Farinas with clubs after he took part in a protest outside a police station over the arrest of a dissident. The beating, which began after Farinas refused to say "Long Live Fidel Castro," left him badly bruised.

On October 16, a group of approximately 30 persons appeared outside the Havana home of veteran dissident Roberto de Miranda and during a 4-hour period shouted insults at de Miranda and his wife.

In October and November, in the Villa Clara city of Manicaragua, 21 prodemocracy and human rights activists accused the government of forbidding them to use public transportation, frequent restaurants, use public recreation facilities or receive visitors at home. The activists stated that their photos had been posted outside public establishments and grocery stores, so that workers would know whom not to serve.

The government reportedly threatened to take custody of children of some members of the political opposition. On November 7, a State Security official warned executive-turned-whistleblower Niurka Brito, "If you continue to have ties with the opposition, you could lose custody of your children."

The constitution provides that print and electronic media are inalienably state property. The government owned and the CP controlled all media except for a few small, unauthorized church-run publications. The law bars "clandestine printing" and provides for three to six months' imprisonment for failure to identify the author of a publication or the printing press used to produce the publication. Catholic church-run publications, denied access to mass printing equipment, were subject to governmental pressure. *Vitral* magazine, a publication of the diocese of Pinar del Rio, continued to publish during the year.

Citizens did not have the right to receive or possess publications from abroad, although newsstands in hotels for foreigners and certain hard currency stores sold foreign newspapers and magazines. The government continued to jam the transmissions of Radio Marti and Television Marti.

All media must operate under CP guidelines and reflect government views. The government also pressured groups normally outside official controls, such as visiting and resident international correspondents. Cars used by foreign journalists have unique license plates, enabling monitoring by the authorities. Expulsions lessened following the adoption of a stricter visa policy; the government barred some foreign journalists from entering the country.

Law 88 prohibits a broad range of activities that purportedly undermine state security. The law provides for fines and prison terms of 7 to 20 years for each charge for anyone possessing or disseminating "subversive" literature or supplying informa-

tion that U.S. authorities could use to apply U.S. legislation. At year's end 22 journalists arrested in 2003 for violating Law 88 remained in prison.

On March 24, journalist Oscar Mario Gonzalez was detained and interrogated by police. Police told him that he was considered one of the independent journalists most critical of the regime; the government continued to deny his request for an exit visa to visit his daughter.

On June 20, cartoonists in the city of Santa Clara were rounded up for interrogation after a series of antigovernment caricatures appeared in the city.

The government continued to subject independent journalists to: internal travel bans; arbitrary and periodic detentions (overnight or longer); harassment of family and friends; seizures of computers, office, and photographic equipment; and repeated threats of prolonged imprisonment. Independent journalists in Havana reported that threatening phone calls and harassment of family members continued during the year. Ministry of the Interior agents infiltrated and reported on independent journalists.

Authorities also placed journalists under house arrest to prevent them from reporting on human rights conferences and events and on court cases against activists (see section 1.d.). Police prevented independent journalists from covering "sensitive" events.

Authorities often confiscated journalists' equipment, especially photographic and recording equipment, on the grounds that it had been purchased illegally, despite receipted proof to the contrary. On November 29, state security officers in Santa Clara executed a search warrant to seize "counter-revolutionary" materials at the home of independent journalist Carlos Serpa Maceira. They reportedly confiscated his books, notes, radio, and two small recorders.

Resident foreign correspondents reported that intense government pressures, including official and informal complaints about articles, continued throughout the year. The government controlled resident foreign journalists by requiring them to obtain an exit permit each time they wished to leave the country. The government also required foreign correspondents to hire local staff from government agencies.

The government continued to control tightly distribution of information, including importation of foreign literature, which largely was unavailable to the public. The government frequently barred independent libraries from receiving materials from abroad and seized materials donated by foreign diplomats. The government prohibits diplomatic missions from printing or distributing publications, including newspapers and newspaper clippings, unless such publications exclusively address conditions in a mission's home country and prior government approval is received. Many missions did not accept this requirement and distributed prohibited materials.

On February 25, State Security agents entered the homes of Maria Elena Mir Marrero and Reinaldo Cosano Alen, directors of two independent libraries. The agents confiscated boxes containing books, radios, and copies of the Universal Declaration of Human Rights.

The government operated four national television stations, four national radio stations, one international radio station, one national magazine, and three national newspapers. Additionally, it operated many local radio stations, television stations, magazines, and newspapers. All were official organs of the CP, dedicated to promulgating its propaganda. Content was nearly uniform across all of these media; none reflected any degree of editorial independence. The regime tolerated the Catholic Church's publication and circulation of two magazines and several other publications but vigorously persecuted any other independent person or institution that attempted to distribute written, filmed, or photographed material. The only books published in the country were those published by the government, and state censors required pre-publication approval.

The government controlled all access to the Internet and subjected all electronic mail to review and censorship. In October Reporters without Borders noted that the government "does its best to keep its citizens away from the Internet." The Internet could be accessed only through government-approved institutions. Only foreigners were permitted to purchase Internet access cards from the national telephone monopoly, leading to a continued increase in clandestine Internet connections.

Direct Internet access was generally available only to certain government-approved individuals, including some doctors, professors, and journalists. The authorities continued to restrict the types and numbers of international Web sites that could be opened by citizens and did not permit church representatives to have Internet access. In November a foreign press account reported the government's acknowledgment that it blocked access to Web sites it considered to be terrorist, subversive, or pornographic.

On April 20, Internet access was suspended in Santiago de Cuba in anticipation of local elections. An employee of the only Internet cafe in the city reported that

the Internet service provider routinely cut service any time a politically significant event took place.

The government restricted academic freedom and continued to emphasize the importance of reinforcing revolutionary ideology and discipline. Academics were prohibited from meeting with some diplomats without prior government approval. The Ministry of Education required teachers to evaluate students' and their parents' ideological character and to place such evaluations in school records. These reports directly affected students' educational and career prospects. Government policy required teaching materials for courses such as mathematics or literature to have ideological content. Ideological indoctrination began with textbooks for students in the early primary grades. Government-controlled public libraries denied access to books or information unless the requester produces a government letter of permission.

Academics whom the government allowed to travel abroad were aware that their actions, if deemed politically unfavorable, could negatively impact those back home.

b. Freedom of Peaceful Assembly and Association.—Although the constitution grants limited rights of assembly and association, these rights are subject to the requirement that they may not be “exercised against the existence and objectives of the Socialist State.”

Freedom of Assembly.—The law punishes any unauthorized assembly of more than three persons, including those for private religious services in private homes, by up to three months in prison and a fine. The authorities selectively enforced this prohibition and often used it as a pretext to harass and imprison human rights advocates.

On May 20, the government permitted a meeting in Havana of the Assembly to Promote Civil Society. Approximately 150 members and observers attended. However, two European journalists who sought to cover the event were expelled from the country, and for months afterwards, the government subjected participants to harassment, arrest, and other abuses. For example, on July 22, leaders of the Assembly for the Promotion of Civil Society Martha Beatriz Roque and Rene Gomez Manzano were among approximately 30 people arrested en route to a demonstration (see section 1.e.).

The authorities never have approved a public meeting by a human rights group and often detained activists to prevent them from attending meetings, demonstrations, or ceremonies. Unapproved meetings and demonstrations took place, which the government frequently disrupted, infiltrated, or attempted to prevent. Authorities sometimes used or incited violence against peaceful demonstrators.

On January 20, government agents assembled more than 500 people in the streets outside the house of Gerardo Lazcano Naranjo in efforts to disrupt a peaceful gathering at his home.

On July 13, authorities in Havana mobilized a Rapid Reaction Brigade against a small group convening at the city's sea wall for a peaceful commemoration ceremony. Brigade members verbally attacked and threatened the peaceful vigil, and police took into custody 30 participants, 7 of whom remained in custody at year's end. On August 12, at the instigation of the authorities, approximately 80 persons filled the streets in front of the home of Vladimiro Roca, leader of the outlawed political group Todos Unidos, thus preventing members of the group from attending a scheduled meeting.

On August 27, dissident doctor Darsi Ferrer organized a meeting of doctors and public health workers in Havana, which became the object of an “act of repudiation.” A government-organized mob blocked and jostled would-be participants and hurled abuse at those inside.

On December 10, 13 pro-democracy activists gathered in Sancti Spiritus at the home of Irma Gomez Ortiz to mark Human Rights Day. A crowd of 70 people, including CP members, massed out front, shouting insults at those inside.

Freedom of Association.—The law specifically prohibits unrecognized groups, and the government generally denied citizens the freedom of association. The authorities never have approved the existence of a human rights group; however, a number of professional associations operated as nongovernmental organizations (NGOs) without legal recognition, including the Association of Independent Teachers, the Association of Independent Lawyers, the Association of Independent Architects and Engineers, and several independent journalist organizations. The constitution proscribes any political organization other than the CP (see section 3).

Recognized churches (see section 2.c.), the Roman Catholic humanitarian organization Caritas, the Freemason movement, and a number of fraternal or professional organizations were the only associations permitted to function outside the control or influence of the state, the CP, and their mass organizations. The authorities con-

tinued to ignore applications from new groups for legal recognition, thereby subjecting members to potential charges of illegal association.

c. Freedom of Religion.—Although the constitution recognizes the right of citizens to profess and practice any religious belief within the framework of respect for the law, the government continued to restrict freedom of religion. The government requires churches and other religious groups to enroll with the provincial registry of associations within the Ministry of the Interior to obtain official recognition. The government did not place any numerical limits on admissions to Catholic seminaries, and there were no constraints on ordination. In practice the government appeared to halt registration of new denominations, although no groups were known to have applied for registration during the year. The government tolerated some relatively new religions, such as the Baha'i Faith and a small congregation of the Church of Jesus Christ of Latter-day Saints. Officials frequently harassed and repressed unregistered religious groups.

The Ministry of Interior engaged in active efforts to control and monitor religious institutions, particularly through surveillance, infiltration, and harassment of religious professionals and practitioners. State Security officials visited priests and pastors prior to significant religious events to warn that dissidents were trying to "use the church." In many churches, most noticeably at Santa Rita's, in front of which relatives of political prisoners, the "Ladies in White," staged a weekly march for their release, State Security agents attended Mass for intimidation purposes.

Although it did not favor any one particular religion or church, the government appeared to be most tolerant of those churches that maintained close relations to the state through the Cuban Council of Churches (CCC), which often supported government policies.

The government, with rare exceptions, prohibited the construction of new churches, forcing many growing congregations to seek permits to meet in private homes. On February 18 the congregation of a Pentecostal parish in Havana rejected the government's order to demolish their church on the grounds that it was constructed illegally.

The government introduced a regulation to "legalize" thousands of private homes used for occasional church services; it set forth a number of requirements, including that the house host no more than three meetings per week and not be located within 1.2 miles of another such house. Some Protestants, whose congregations have grown in recent years, expressed worry that the regulation was aimed at them.

On January 7, Ismari de Armas lost her job at a Pinar del Rio sewing shop. The administrators of the state-owned shop told her they could not trust her because she was a Jehovah's Witness.

Education is secular, and no religious educational institutions are allowed; however, the Catholic Church, Protestant churches, and Jewish synagogues were permitted to offer religious education classes to their members.

Religious literature and materials must be imported through a registered religious group and may be distributed only to officially recognized religious groups.

The CCC continued to broadcast a monthly 15-minute radio program on condition that it not include material of a political nature.

On January 6, priests of the *babalawo* cult reported that government officials visited them to pressure them to assimilate with the government-sanctioned Yoruba Cultural Association (YCA); inquired about membership roles, including the number of foreigners involved in the church; and informed the priests that if they sought to leave country all of their icons would be confiscated, unless they had a YCA membership card.

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination against members of religious groups. There were between 1,000 and 1,500 members of the Jewish community. There were no reports of overtly anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law qualifies these rights, and the government severely restricted foreign travel and emigration. Although it generally did not restrict domestic travel, the government limited internal migration to Havana. State Security officials prohibited some human rights advocates and independent journalists from traveling outside their home provinces.

Although the law allows all citizens to travel anywhere within the country, residence is heavily restricted, thus impeding the right to move. The local housing commission and provincial government authorities consider requests for change of residence largely on the basis of housing space. According to the Cuban Commission for

Human Rights, the system is fraught with corruption. During the wait for permission, which routinely lasts six months or more, the applicant cannot obtain food rations or a local identification card. Police frequently checked the identification of persons on the streets, and anyone from another province living in Havana illegally may be fined and sent home. While the regulation was in effect nationwide, it was applied most frequently in Havana. Afro-Cubans from the more impoverished eastern provinces were disproportionately affected by this regulation.

On July 14, independent journalist Lamasiel Gutierrez Romero was taken into custody for several hours when she purchased a plane ticket to travel from her home on the Isla de Juventud to Havana. While in custody, she was beaten, held without food or water, and threatened with imprisonment for up to two years.

In September independent journalist Amarilis Cortina Rey was fined for living "without official permission" in the Havana house her grandfather purchased in 1924 and for which she was the only heiress. Residency law was enforced selectively in her case, likely because of Cortina's work as an independent journalist. A similar incident occurred in December when a neighbor of activist Martha Beatriz Roque was evicted, almost certainly because of her friendship with Roque.

The government imposed restrictions on both emigration and temporary foreign travel, mainly by requiring an exit permit. Although the government allowed the majority of persons who qualified for immigrant or refugee status in other countries to depart, thousands of citizens who received foreign travel documents were denied exit permits during the year. Most were doctors, nurses, and other health professionals. Others denied exit permits included young men of military age and citizens with certain political or religious beliefs. On December 14, the "Ladies in White"—relatives of political prisoners—were denied exit permits to receive the Sakharov Prize awarded to them by the European Parliament.

The government banned some of the professionals who were denied exit permits from working in their occupational fields or subjected them to arbitrary punishment. For instance, Doctor Amarilys Lorenzo Contreras and her dentist husband, Adalberto Dorrego Torres, were allowed to continue in their professions but were transferred to inferior government clinics after they sought exit permits.

Resolution 54 denies exit permits to medical professionals until they have performed three to five years of service in their profession after requesting permission to travel abroad. This regulation, which was normally applied to recent graduates, remained officially unpublished.

The denial of exit permits to men of military age usually covered individuals age 18 to 27; however, in most cases involving migration under the 1994 US-Cuba Migration Accords, the applicants eventually received exemption from obligatory service and were granted exit permits.

The government denied exit permits for several years to relatives of individuals who migrated illegally (for example, merchant seamen and sports figures who defected while out of the country). The government frequently withheld exit visas to control dissidents.

Jorge Olivera, one of the 75 political prisoners summarily convicted in 2003, requested exit permission on January 6 and at year's end remained waiting for a response. Juan Carlos Gonzalez Leiva, former political prisoner and current political activist, reported that eight of his relatives, including his parents, sister, and her family, have waited since January for exit permits.

On January 17, authorities revoked the exit permit of Nelida Hernandez de Llano, a member of the Christian Liberation Movement. She and her family had qualified for refugee status abroad.

On September 20, police prevented dissident Miguel Sigler, his wife Josefa Lopez, and their two children from leaving the country as refugees, despite approved documentation. The family returned to Havana where they were forced to stay with friends because the government had already seized their house in Matanzas. On September 27, as Lopez walked along a Havana street, an assailant beat her, declaring that it was a warning to her and her husband. On October 5, the Sigler family was allowed to emigrate.

The government also used both internal and external exile to control internal opposition. The law permits authorities to bar an individual from a certain area or to restrict an individual to a certain area for a period of 1 to 10 years. Under this provision, authorities may exile any person whose presence in a given location is considered "socially dangerous."

The government routinely invoked forced exile as a condition for political prisoner releases and also pressured activists to leave the country to escape future prosecution.

Migrants must pay processing fees (approximately \$180 [4,500 pesos] for exit permission, \$66 [1,650 pesos] for a passport, and \$30 [750 pesos] for an airport tax),

that amount to approximately 23 months' salary for the average citizen. Migrants to the United States faced an additional charge of approximately \$720 (18 thousand pesos or 5 years' salary) for adults and \$480 (12 thousand pesos) for children. These fees represented a significant hardship, particularly for political refugees, many of whom were fired from their jobs for being "politically unreliable" and had no income. At year's end some refugees were unable to leave the country because of inability to pay exit fees. Authorities routinely dispossessed refugees and their families of their homes and most of their belongings before permitting them to leave the country.

The law provides for imprisonment of up to 3 years or a fine of \$12 to \$40 (300 to 1,000 pesos) for unauthorized departures by boat or raft. The Office of the UN High Commissioner for Refugees (UNHCR) stated that it regarded imprisonment of more than one year for simple illegal exit as excessive. Under the terms of the 1994 US-Cuba Migration Accord, the government agreed not to prosecute or retaliate against migrants returned from international or US waters, or from the US Naval Base at Guantanamo, after attempting to emigrate illegally if they had not committed a separate criminal offense. However, in practice some persons repatriated under the terms of the Accord reported harassment and discrimination.

Protection of Refugees.—Although the country is not a party to the 1951 UN Convention Relating to the Status of Refugees and its 1967 protocol, the constitution provides for the granting of asylum to individuals persecuted for their ideals or actions involving a number of specified political grounds. Although the government has no formal mechanism to process asylum for foreign nationals, in practice it provided protection against *refoulement*, the return of persons to a country where they feared persecution.

The government had an established system to provide assistance to refugees. During the year 39 persons applied for refugee status, of whom 10 were approved; according to the UNHCR, there were 708 refugees in the country. The government cooperated with the UNHCR, and provided temporary protection to a small number of persons.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

While the constitution provides for direct election of provincial, municipal, and ANPP members, citizens do not have the right to change their government, and the government retaliated against those who sought peaceful political change. The constitution, which proscribes any political organization other than the CP, defines socialism as its "irrevocable" basis. Candidates for provincial and national office must be approved in advance by mass organizations controlled by the government. In practice a small group of leaders, under the direction of the president, selected the members of the highest policy-making bodies of the CP, the Politburo, and the Central Committee.

The government continued to reject the petition for a national referendum on political and economic reforms known as the Varela Project, despite more than 40 thousand signatures.

Elections and Political Participation.—In 2003 there were national elections in which 609 candidates were approved to compete for the 609 seats in the National Assembly. The CP was the only political party allowed to participate in the elections. A small minority of candidates did not belong formally to the CP but were chosen through the same government-controlled selection process. The government saturated the media and used government ministries, CP entities, and mass organizations to urge voters to cast a "unified vote" where marking one box automatically selected all candidates on the ballot form.

During the year there were elections for nearly 15 thousand local representatives to the municipal assemblies. After the first run-off election, the government reported that 96.6 percent of the electorate had voted. While the law allows citizens not to vote, CDRs often pressured neighborhood residents to cast ballots. According to the Cuban Commission for Human Rights, the government blacklisted those who did not vote.

Although not a formal requirement, in practice CP membership was a prerequisite for high-level official positions and professional advancement.

The government rejected any change to the political system that it judged incompatible with the revolution and ignored or actively suppressed calls for democratic reform. After the Christian Liberation Movement, led by Oswaldo Paya, submitted to the National Assembly two petitions (known as the Varela Project) proposing a national referendum on political and economic reforms, the National Assembly in 2003 unanimously passed an amendment making socialism the irrevocable basis of the constitution.

Varela organizers continued to collect signatures in support of their proposal; however, activists reported increased harassment by State Security agents. Authorities arrested and detained Varela activists, confiscated signatures, fined and threatened activists and signers, and forced signers to rescind signatures. State Security impersonated canvassing volunteers and increasingly infiltrated the ranks of activists. In May and June, Oswaldo Paya reported State Security agents visited and pressured more than 50 Varela Project signatories to retract their signatures and denounce the Varela Project activists who had collected their signatures.

There were 2 women in the 24-member Politburo and 22 in the 150-member Central Committee. Women held 5 seats in the 390 member-Council of State and 219 seats in the 609-seat National Assembly.

While the 2002 census recorded that blacks and persons of partial African descent account for 35 percent of the population, according to the 2002 census, some observers estimated that Afro-Cubans made up 50 percent or more of the population. Persons of African descent held 6 seats in the 24-member Politburo. Following the selection of the new ANPP in 2003, the government reported its composition as 67 percent white, 22 percent black, and 11 percent mixed race.

Government Corruption and Transparency.—Independent and official press reported incidents of government corruption. In October the government acknowledged massive corruption at state-run gas stations and ordered youth brigades to take over their operations. Also during the year, the government released statistics indicating that prosecutors over the past three years had made 16 thousand accusations for economic crimes at state-run companies.

The law provides for public access to government information, but in practice requests for information routinely were rejected, often on the grounds that access was not a right. Many convicts and their defense attorneys never received a copy of the sentence certification to which they were legally entitled.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

In violation of its own statutes, the government did not recognize any domestic human rights groups or permit them to function legally. Several human rights organizations continued to function outside the law, including the Cuban Commission for Human Rights and National Reconciliation, the Cuban Committee for Human Rights, and the Cuban Human Rights Party. The government subjected domestic human rights advocates to intense intimidation and harassment, including threats of disappearance. For example, on September 17 in Pinar del Rio city, State Security agents visited the home of human rights activist Virgilio Pita Rivero and told his wife that if he did not end his activities, they would “make him disappear.”

State Security officials often infiltrated human rights organizations and subjected them to constant surveillance. Public identification of suspected state infiltrators was a crime punishable by 8 to 15 years’ imprisonment.

The government took various steps to restrict the operation of domestic human rights NGOs that advocated or criticized the government’s human rights policies. Government authorities regularly threatened NGOs with prosecution under the Penal Code provisions of “dangerousness” (see section 1.a.) Both the UN Commission on Human Rights (UNCHR) and the IACHR criticized this tactic for its arbitrariness, the summary nature of the judicial proceedings employed, the lack of legal safeguards, and the political considerations behind its application. Private individuals acting in response to government instigation and coercion often harassed members of human rights NGOs; crowds assembled at their homes prevented access, intimidated people, and sometimes caused material damage.

The government rejected international human rights monitoring, did not recognize the mandate of the UNCHR, and refused to acknowledge requests by the Personal Representative of the Commissioner on Human Rights, to visit the country. Meanwhile, the UNCHR renewed the status of the personal representative.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, or social status, however, racial discrimination occurred frequently.

Women.—The law prohibits threats and inflicting injuries, including those associated with domestic violence. Human rights advocates reported that violence against women was a problem, and police often did not act on cases of domestic violence. Violent crime rarely was reported in the press, and there was no available data regarding the extent of domestic violence.

The law criminalizes rape (though it was unclear whether that included spousal rape) and stipulates penalties ranging from 4 to 10 years’ imprisonment. If two or more rapists are involved, or if the rapist had been convicted previously of the same

offense, sentences could reach 15 years. If the victim is under 12, or if the act results in injuries or grave illness, capital punishment is possible. The government enforced the law.

Prostitution is legal for persons over age 17, but pandering and economic activities facilitating prostitution, including room rentals, are illegal. Large numbers of foreign tourists visited the country specifically to patronize prostitutes, and sex tourism was a problem. Some street police officers were suspected of providing protection to individuals engaged in prostitution, who were numerous and visible in Havana and other major cities.

The law provides penalties for sexual harassment, with potential sentences of three months to five years' imprisonment. The rigor of enforcement and the extent of the problem were unclear. The law was applied most frequently to male supervisors "abusing their power" with female subordinates, according to the Cuban Commission for Human Rights.

The law provides that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. The law grants working mothers preferential access to goods and services. The law provides for equal pay for equal work, and women generally received pay comparable to men for similar work.

Children.—The law provides that all children have equal rights and that parents have a duty to ensure their protection. Public education was free through the university level. The law requires school attendance until the ninth grade, which was the highest level achieved by most children. The government reported that 99.4 percent of primary-school-age children were enrolled in school during the 2004–05 school year, while UNICEF recorded that 93.1 percent of secondary-school-age children were enrolled in the 2003–04 school year. All elementary and secondary school students received obligatory ideological indoctrination.

Boys and girls had equal access to a national health care system that covered all citizens. UNICEF reported high vaccination rates for childhood diseases. Children up to age seven received additional food rations through the ration card system.

Although seldom covered in the official media, there were occasional reports of child abuse, but there was no societal pattern of child abuse. Researchers released the results of a 6-year study of child abuse in the Santiago area, conducted by the Superior Institute of Medical Sciences, which found that 50 percent of children aged 8 to 10 reported having been punched or kicked following the ingestion of alcohol by their parents.

Police officers who found children loitering in the streets or begging from tourists frequently intervened and tried to find the parents. If a child was found bothering tourists more than once, police frequently fined the child's parents. During their summer vacation, students were pressured to enlist for up to a week of "volunteer labor" at work camps in rural areas.

Child prostitution was a problem, with young girls engaging in prostitution to help support themselves and their families (see section 5, Trafficking). Children may marry with the consent of their parents at age 14, but the law provides for 2 to 5 years' imprisonment for anyone who "induces minors under 16 years of age to practice homosexuality or prostitution."

Trafficking in Persons.—The law prohibits all forms of trafficking in persons, and there were no reports that persons were trafficked to or from the country. Trafficking for underage prostitution and forced labor occurred within the country.

The law criminalizes promoting or organizing the entrance of persons into, or the exit of persons from, the country for the purpose of prostitution; violators were subject to 20 to 30 years' imprisonment.

The Ministries of Justice and Education, the PNR, and local governments are tasked with different facets of combating trafficking in persons and the problem of underage prostitution; no entity had complete autonomy dealing with these problems. The police were tasked with investigating and arresting traffickers; the Ministry of Justice with prosecuting and incarcerating traffickers; and the Ministry of Education with rehabilitating prostitutes, including underage prostitutes. No information was available concerning government assistance with international investigations of trafficking or the extradition of traffickers.

While underage prostitution was widely apparent, there were no reliable statistics available regarding its extent. Although the police generally enforced laws on underage prostitution, the phenomenon continued, with cabarets and discos catering to sex tourists. The government prosecuted persons involved in child prostitution and child pornography and assisted other countries in international investigations of child sexual abuse.

Trafficking victims came from all over the country, and most worked in the major cities and tourist resort areas. Anecdotal information indicated that victims came from poor families; in many cases, families encouraged victims to enter into prostitution.

There was no information available regarding traffickers and their methods.

There were anecdotal reports of police officers receiving bribes to allow exploitation of minors for prostitution.

Individuals engaged in prostitution, including possible trafficking victims and children, often were treated as criminals, detained, and taken to rehabilitation centers.

No civil society groups in the country assisted trafficking victims in an official capacity.

Persons with Disabilities.—There was no known law prohibiting official discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, a Labor Ministry resolution gives persons with disabilities the right to equal employment opportunities, and to equal pay for equal work. There was no official discrimination against persons with disabilities. There are no laws mandating accessibility to buildings for persons with disabilities, and in practice, buildings and transportation rarely were accessible to persons with disabilities.

The Special Education Division of the Ministry of Education was responsible for the education and training of children with disabilities. The Ministry of Labor and Social Security was in charge of the Job Program for the Handicapped.

National/Racial/Ethnic Minorities.—Although there were many black police officers and army enlisted personnel, racial discrimination often occurred. Blacks complained of frequent and disproportionate stops for identity checks.

Other Societal Abuses and Discrimination.—Societal discrimination against homosexuals persisted, as police occasionally conducted sweeps in areas where homosexuals congregated, particularly along sections of Havana's waterfront.

The government restricted persons found to be HIV-positive to sanatoriums for treatment and therapy before conditionally releasing them into the community. Even after their release, some persons with HIV/AIDS said the government monitored their movements with a de-facto chaperone to prevent the spread of the illness. HIV/AIDS sufferers also asserted that state medical professionals frequently failed to respect confidentiality, with the result that their condition was known widely throughout their neighborhoods. Some persons with HIV/AIDS said the government only offered them jobs incompatible with their medical condition.

Section 6. Worker Rights

a. The Right of Association.—The law does not allow workers to form and join unions of their choice. Rather, the state established official unions and did not permit competing independent unions. Official labor unions have a mobilization function and do not act as trade unions, promote worker rights, or protect the right to strike. Such organizations were under the control of the state and the CP, which also managed the enterprises for which the laborers worked. Because all legal unions were government entities, antiunion discrimination by definition did not exist.

The CP selects the leaders of the sole legal labor confederation, the Confederation of Cuban Workers (CTC), whose principal responsibility is to ensure that government production goals are met. Virtually all workers were required to belong to the CTC, and promotions were frequently limited to CP members who take part in mandatory marches, public humiliations of dissidents, and other state-organized activities.

Workers often lost their jobs because of their political beliefs, including their refusal to join the official union. Several small independent labor organizations were created, although they functioned without legal recognition. These organizations also were subject to infiltration by government agents and were unable to represent workers effectively or work on their behalf.

On January 11, independent union organizer Juan Antonio Salazar was arbitrarily detained by police while he was walking down the street. Police threatened to charge Salazar with "threatening behavior" but after several hours released him without charges.

b. The Right to Organize and Bargain Collectively.—Although provided for in the law, collective bargaining does not exist in practice. The State Committee for Work and Social Security sets wages and salaries for the state sector, which is virtually the only employer in the country. The law does not provide for strikes, and none

were known to have occurred during the year. There are no special laws or exemptions from regular labor laws in the three export processing zones.

The law denies all workers, except those with special government permission, the right to contract directly with foreign companies investing in the country. Although a few firms negotiated exceptions, the government required foreign investors and diplomatic missions to contract workers through state employment agencies, which were paid in foreign currency, but which, in turn, paid workers very low wages in pesos (see section 6.e.) Workers subcontracted by state employment agencies must meet certain political qualifications. The state employment agencies consulted with the CP, the CTC, and the Union of Communist Youth to ensure that the workers chosen "deserved" to work in a joint enterprise.

c. Prohibition of Forced or Compulsory Labor.—The law does not prohibit forced or compulsory labor by adults. The government maintained correctional centers for persons convicted of such crimes as "dangerousness" (see section 1.a.). Prisoners held in such centers were forced to work on farms or at sites performing construction, agricultural, or metal work. The authorities also often imprisoned persons sent to work sites who refused to work.

On July 5, Ernesto Arocha Carta, a retiree who had been declared disabled, filed a complaint with the Ministry of Justice protesting his sentence to one year's house arrest, which included forced labor.

The law prohibits forced or compulsory labor by children, but there were reports that such practices occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits forced and compulsory labor by children, and the Ministry of Labor and Social Security was responsible for enforcement. Nonetheless, the government required children to work in various situations.

Students at rural boarding schools were expected to participate in several hours of manual labor per day. Secondary school students were expected to devote up to 15 days of their summer vacation completing a variety of tasks ranging from farm labor to urban cleanup projects and were paid a small wage for this labor. Students in post-secondary institutions (technical schools, university preparatory schools, and agricultural institutes) were expected to devote 30 to 45 days per year to primarily agricultural work. Refusal to do agricultural work could result in expulsion from school.

The legal minimum working age is 17, but the Labor Code permits the employment of 15- and 16-year-old children to obtain training or to fill labor shortages. The Labor Code does not permit teenagers to work more than 7 hours per day or 40 hours per week or on holidays. Children age 13 to 18 cannot work in specified hazardous occupations, such as mining, or at night.

e. Acceptable Conditions of Work.—The minimum wage, which is enforced by the labor ministry, varies by occupation. On average, the minimum monthly wage approximated \$9 (225 pesos). The government supplemented the minimum wage with free education, subsidized medical care (daily pay is reduced by 40 percent after the third day of being admitted to a hospital), housing, and some subsidized food. Even with subsidies, the minimum wage did not provide a decent standard of living for a worker and family.

The government required foreign companies in joint ventures with state entities to hire and pay workers through the state (see section 6.b.). HRW noted that the required reliance on state-controlled employment agencies left workers without any capacity directly to negotiate wages, benefits, the basis of promotions, or the length of the workers' trial period at the job with the employer. Foreign companies paid the government as much as \$500 to \$600 per worker per month; however, because the government paid salaries in nonconvertible pesos, workers only received 5 percent of the money foreign companies paid to the government for their services.

The standard workweek was 44 hours, with shorter workweeks in hazardous occupations, such as mining. The law provides workers with a weekly 24-hour rest period. These standards were effectively enforced. The law does not provide for premium pay for overtime or prohibit obligatory overtime. Workers were occasionally asked to work overtime at their usual, non-overtime rate; refusal to do so could result in a notation in the employee's official work history that could imperil any subsequent request for vacation time.

Laws providing for workplace environmental and safety controls were inadequate, and the government lacked effective enforcement mechanisms. In December the government announced that in the first 11 months of the year, 90 people died in work-related accidents, compared with 72 for the same period in 2004. The law provides that a worker who considers his life in danger because of hazardous conditions has the right to refuse to work in a position or not to engage in specific activities until

such risks are eliminated; the worker remains obligated to work temporarily in whatever other position may be assigned him at a salary provided for under the law.

DOMINICA

Dominica is a multiparty, parliamentary democracy with a population of approximately 70,400. Prime Minister Roosevelt Skerrit's Dominica Labour Party (DLP) prevailed in elections in May, the results of which were certified despite challenges filed by the opposition in a few constituencies. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in a few areas:

- poor prison conditions
- violence against women and children
- conditions experienced by indigenous Carib Indians

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, police investigated two instances in which security forces allegedly committed unjustified killings.

In February police reportedly beat, shot, and killed Clifford Ambo. According to press reports, the Ambo's family complained that the killing was unjustified. Police completed their investigation into the killing, the results of which were under review by the director of public prosecutions (DPP) at year's end.

Also in February prison guards reportedly beat to death Henson Joseph after catching him attempting to escape. The incident came to public attention after inmates sent anonymous letters to the press. Police completed their investigation into the killing, the results of which were under review by the DPP at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the law prohibits such practices, complainants brought six cases against the police charging use of excessive force during the year. At year's end all six were before the police force's internal disciplinary tribunal.

Of the seven cases of excessive force brought against police in 2004, authorities dismissed three for lack of evidence. Four cases went to the internal disciplinary tribunal, which found the officers guilty and imposed administrative penalties. At year's end three of the affected officers filed appeals.

Prison and Detention Center Conditions.—Prison conditions were poor. The buildings at the country's single prison, Stock Farm, were in disrepair; conditions remained unsanitary; and overcrowding was a serious problem. The prison held 282 prisoners in a facility designed for fewer than 200 inmates. Prison overcrowding contributed to several escapes by inmates during the year. In June a citizen reportedly shot and killed one escaped inmate while authorities searched for him.

Pretrial detainees were held with convicted prisoners, due to a lack of separate facilities.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The prime minister's office oversaw the Dominica Police, the country's only security force. The 392-officer force effectively carried out its responsibilities to maintain public order. The police have a formal complaint procedure to handle allegations of excessive force or abuse by police officers.

Arrest and Detention.—The police apprehend persons openly with warrants issued by a judicial authority. The law requires that the authorities inform persons of the reasons for arrest within 24 hours after arrest and bring the detainee to court within 72 hours. This requirement generally was honored in practice; however, if the authorities were unable to bring a detainee to court within the requisite period, the detainee could be released and rearrested at a later time. There is a functioning system of bail. Criminal detainees were provided prompt access to counsel and family members.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judicial system is composed of a high court judge, 5 magistrates, and 10 magistrate's courts located in police stations around the country. Appeals can be made to the Eastern Caribbean Supreme Court and to the Privy Council in the United Kingdom.

Trial Procedures.—The law provides for the right to a fair trial before an independent, impartial court, and an independent judiciary generally enforced this right. There are trials by jury, and defendants can confront or question witnesses. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Courts provide free legal counsel to the indigent only in capital cases.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Although churches are not required to register, they must do so to own property, and ministers of registered churches may have an easier time obtaining long-term work visas. In 2004 the Church of Jesus Christ of Latter-day Saints reported difficulties receiving official government recognition, but the new attorney general issued a consent form that would allow the church to register. It planned to do so as soon as possible, but the matter was still pending at year's end.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There was no organized Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The government has not formulated a policy regarding refugees or asylum. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In May the ruling DLP won 12 seats in parliamentary elections, defeating the United Workers' Party (UWP), which won 8 seats. An independent candidate affiliated with the DLP also won a seat. The opposition UWP complained of electoral irregularities and challenged in court the results in five constituencies. In October a high court judge dismissed the UWP's petition, citing a lack of evidence, but the opposition planned to appeal the decision. Although the country has a history of holding free and fair elections, impartial election observers were not present to verify the results.

There were 2 women in the 30-seat legislature: an elected parliamentary representative who also served in the cabinet and a senator appointed by the president.

The parliamentary representative for the constituency that includes the Carib Territory was a Carib Indian; he served concurrently as minister for Carib affairs.

Government Corruption and Transparency.—Corruption was a moderate problem, but the country has not formulated an anticorruption plan to address it.

The law does not provide for public access to government information, and the government did not provide such access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no government restrictions on the formation of local human rights organizations, although no such groups existed. Several advocacy groups, such as the Association of Disabled People, the Dominica National Council of Women, and a women's and children's self-help organization, operated freely and without government interference. There were no requests for investigations of human rights abuses from international or regional human rights groups.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law specifically prohibits discrimination based on race, gender, place of origin, color, and creed, which the authorities generally respected in practice.

Women.—Domestic violence cases were common. Although there are no specific spousal abuse laws, women could bring charges against husbands for battery, and the police and the courts prosecuted cases of rape and sexual assault. Rape cases were handled solely by female police officers. Although the maximum sentence for sexual molestation (rape or incest) is 25 years' imprisonment, the normal sentence given was 5 to 7 years except in the case of murder. The Department of Labor established a crisis response mechanism to assist women who were victims of domestic violence. The Welfare Department of the Ministry of Community Development assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reported all cases of abuse to the police.

The Protection against Domestic Violence Act allows abused persons to appear before a magistrate without an attorney and request a protective order. The court also may order the alleged perpetrator to be removed from the home in order to allow the victims, usually women and children, to remain in the home while the matter is investigated. Police officers continued to receive training in dealing with domestic abuse cases. The Dominica National Council of Women, a nongovernmental organization, provided preventive education about domestic violence and maintained a shelter where counseling and mediation services were available daily and provided to approximately 150 persons during the year. Due to a shortage of funding, the organization only could permit persons to stay at the shelter for several days at a time; however, if needed, further housing was provided in private homes for up to three weeks. The Catholic Church continued to be active in educating the public about domestic violence.

Prostitution is illegal but was a problem. Women from the Dominican Republic reportedly traveled to the country to work as prostitutes. There was no evidence that they were trafficked.

The law does not prohibit sexual harassment, and it remained a problem.

While there was little open discrimination against women, property ownership continued to be deeded to heads of households, who were usually males. When the male head of household dies without a will, the wife may not inherit or sell the property, although she may live in it and pass it to her children. The law establishes fixed pay rates for specific civil service jobs, regardless of gender. The Labor Department reported that many rural women found it difficult to meet basic economic needs, which partly resulted from the continuing decline of the banana export industry.

The Ministry of Community Development and Gender Affairs is charged with promoting and ensuring the legal rights of women.

Children.—The government was committed to children's rights and welfare.

Education is compulsory, free, and universal through the age of 16. Approximately 90 percent of primary school-age children attended school. In September the government made secondary education universal.

Primary health care was available throughout the island, and boys and girls had equal access.

Child abuse continued to be a problem. During the year the Welfare Department received 152 reports of child abuse, including child sexual abuse and incest, compared with 114 in 2004. Enforcement of children's rights laws continued to be hampered by lack of staff.

The age of consent for sexual relations is 16 years. No specific laws prohibit commercial sexual exploitation of children, but such activity could be prosecuted under laws against prostitution or trafficking.

Trafficking in Persons.—The law prohibits trafficking in persons, specifically involving forced labor, commercial sexual exploitation, and smuggling illegal migrants. There were no reports that persons were trafficked to, from, or within the country. Persons convicted of trafficking are subject to a fine of \$37,500 (EC\$100 thousand) and up to 7 years in prison.

Persons with Disabilities.—The law does not specifically prohibit discrimination against persons with disabilities, but there was no discrimination against them in employment, education, access to health care, or in the provision of other state services. There is no legal requirement mandating access to buildings for persons with disabilities. Labor laws permit authorization of employment to persons with disabilities for less than the minimum wage, to increase employment opportunities for such persons (see section 6.e.).

Indigenous People.—There was a significant Carib Indian population, estimated at 3,500 persons, most of whom lived in the 3,782-acre Carib Territory. Despite having a representative in the government, the Caribs believed that the government could do more to protect their civil and political rights. The government has a Ministry of Carib Affairs headed by a Carib Indian. A police station on the Carib Territory was staffed by four to five officers, several of whom were typically Caribs. School, water, and health facilities on the territory were rudimentary but similar to those available to other rural citizens; there were four primary schools in the Carib Territory and two secondary schools in nearby communities attended by Carib children. Unemployment in the territory generally was higher than in the rest of the country, and average income was below the national average.

The Carib Act states that any child of a Carib Indian is also Carib. Non-Caribs may become Carib Indians if they are invited to live in the Carib Territory and continuously do so for 12 years. Every 5 years Carib Indians over the age of 18 who reside there may vote for the chief and 6 members of the Council of Advisors (they also are eligible to vote in national elections). According to the Carib Act, the council must meet once a month, determine the chief's itinerary, and publish council meeting agendas in the government Gazette.

Territory building permits may be obtained from the Carib Council and only were available to Carib Indians. Although the law permits Carib men and women married to non-Caribs to continue living in the territory, in practice Carib women married to non-Caribs had to move out of the territory.

The law establishing the Carib Territory does not delineate clearly the territorial boundaries. Carib Indians continued to report difficulties obtaining bank financing, particularly since reservation land was communal and therefore unavailable for use as collateral for loans.

Section 6. Worker Rights

a. The Right of Association.—Workers exercised the legal right to organize and choose their representatives. Unions represented approximately one-third of the total work force; approximately half of government workers were unionized.

While the law provides that employers must reinstate workers fired for union activities, unions were concerned that this law was not enforced. The National Workers Union and the Waterfront and Allied Workers Union pursued separate cases on behalf of shop stewards who allegedly were dismissed for union activities in 2003. These two cases remained unresolved at year's end.

b. The Right to Organize and Bargain Collectively.—Unions have legally defined rights to organize workers and to bargain with employers. Workers exercised this right, particularly in the nonagricultural sectors of the economy, including in government service. Government mediation and arbitration were also available. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice. The banana, coconut, and citrus fruit industries as well as port services were deemed essential services, which effectively prohibits workers in these sectors from going on strike. The International Labor Organization considered this definition overly broad and repeatedly urged the government to redefine essential services in a more limited way. However, the size of the agricultural industry declined significantly and was concentrated mainly in small family farms. Thus there was little domestic impetus to change this or other sections of the labor laws that were out of date but had little real impact upon workplace issues.

In 2004 a court found in favor of the government in a case brought by the Public Service Union (PSU) concerning the legality of government cost-cutting measures. The PSU appealed the decision to the Privy Council in London, and a decision was pending at year's end.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although two laws prohibit employment of children, one law defines a “child” as under age 12 and the other as under age 14. The government defined 15 years as the minimum age for employment and enforced this standard in principle. Children between the ages of 12 and 14 were allowed to work only in certain family enterprises such as farming. Safety standards limit the type or work, conditions, and hours of work for children over the age of 14. The government effectively enforced these standards.

e. Acceptable Conditions of Work.—The law sets minimum wages for various categories of workers, but these were last revised in 1989. The minimum wage rate for some categories of workers (e.g., household employees) was as low as \$0.37 (EC\$1.00) per hour if meals were included. However, minimum wages for most workers ranged from \$0.74 (EC\$2.00) per hour for tourist industry workers to \$1.11 (EC\$3.00) per hour for occupations such as shop clerk. Minimum wages did not provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earned more than the legislated minimum wage for their category, and there was no need to enforce the outdated legal minimum wages.

Labor laws provide that the labor commissioner may authorize the employment of a person with disabilities at a wage lower than the minimum rate in order to enable that person to be employed gainfully.

The standard legal workweek is 40 hours in 5 days. The law provides overtime for work above the standard workweek; however, excessive overtime is not prohibited. The government effectively enforced these standards.

The Employment Safety Act provides occupational health and safety regulations that are consistent with international standards. Inspectors from the Environmental Health Department of the Ministry of Health conduct health and safety surveys. The Department of Labor conducts inspections that prescribe specific compliance measures, impose fines, and can result in prosecution of offenders. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment, and the authorities effectively enforced this right.

DOMINICAN REPUBLIC

The Dominican Republic is a representative constitutional democracy with a population of approximately 8.8 million, including an estimated 650 thousand undocumented Haitians. In August 2004 President Leonel Fernandez of the Dominican Liberation Party (PLD) was re-elected in a generally free and fair election. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The government’s human rights record remained poor. Although there were improvements in a few areas, serious problems remained. The following human rights problems were reported:

- unlawful killings committed by security forces
- torture, beating, and other abuse of suspects, detainees, and prisoners by security forces
- poor to harsh prison conditions
- arbitrary arrest and detention of suspects
- lengthy pretrial detention and long trial delays
- self-censorship practiced by journalists and editors
- restricted movement and arbitrary expulsion of Haitian and Dominican-Haitian migrants
- violence and discrimination against women
- child prostitution and other abuse of children
- severe discrimination against and abuse of Haitian migrants and their descendants
- trafficking in persons
- forced labor
- restrictions on freedom of organization and unsafe labor conditions
- child labor in the informal sector

The government made some advances in improving respect for human rights. A new Criminal Procedures Code and a new Code for Minors provided suspects with additional protections but also stiffer sanctions in cases of sexual or commercial exploitation. The government improved its capacity to fight trafficking in persons, to provide assistance for victims, and to increase investigations of traffickers.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Although the government or its agents did not commit any politically motivated killings, security forces were involved in many killings that were unlawful, unwarranted, or involved excessive use of force.

According to the Attorney General's Office, security forces killed between 400 and 440 persons during the year. The National Police reported 371 deaths at the hands of police between January and September, an average of 41 per month. However, such deaths declined in the second half of the year, under the administration of a new police chief, to a monthly figure of 14 in December. In the majority of killings by police, the police stated that the deaths resulted from gunfire exchange in the course of an arrest, which required officers to act in self-defense. According to the National Commission on Human Rights, many killings were related to aggressive tactics on the part of the police.

Human rights organizations stated that the police employed unwarranted deadly force against criminal suspects as in previous years, and uniformed vigilantism persisted on a less-than-deadly level (see section 1.c.). The lack of qualified investigators and the nontransparent conduct of investigations of killings in "exchanges of gunfire" resulted in impunity in a number of cases. Late in the year, however, the new police chief instituted a mandatory formal review whenever a member of the police force was involved in a death by shooting.

Many cases previously referred to courts for investigation remained unresolved or resulted in the release of the accused. There was no record of any Supreme Court investigation into the court-ordered release of police officer Cristino Alvarez Ventura, who shot and killed a youth in 2003.

In October a court sentenced former police Sergeants Rafael Matos Feliz and Homero Zapata and Lieutenant Cristian Feliz Gomez to 20, 10, and 3 years' imprisonment, respectively, for the 2002 killing of a university student in which the officers claimed that they thought he was a delinquent.

Police Lieutenant Juan Bautista Berroa was jailed for an unlawful killing in 2002 in San Francisco de Macoris. His trial was rescheduled several times, most recently for February 2006.

A significant number of deaths occurred in custody due to negligence by prison authorities (see section 1.c.).

There were reports of violence against demonstrators and protesters by members of the security forces, including some killings (see section 2.b.).

On a number of occasions citizens attacked Haitians in vigilante-style reprisals for violent crimes allegedly committed by other Haitians. In some cases the Haitians targeted were killed.

In August a late night drunken robbery attempt in the Santo Domingo suburb of Haina turned into a violent attack when several Dominicans beat four Haitians, then doused them with flammable liquid, and set them on fire. Three died, and the fourth fled with severe burns. A special commission from the National Police investigated the case.

In December in Villa Trina a group of Haitians killed a Dominican who they alleged had been attacking them. Subsequently, unidentified Dominicans killed a Haitian man, injured others, and burned down several Haitian residences.

b. Disappearance.—There were no reports of politically motivated disappearances. There were no developments in the case of Narciso Gonzalez, a university professor and critic of the Balaguer government who disappeared in 1994.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, security force personnel, primarily mid-level and lower-ranking members of the police, continued to torture, beat, and otherwise physically abuse detainees and prisoners.

The law provides penalties for torture and physical abuse, including sentences of 10 to 15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. New abuse and torture cases were remanded to civilian criminal courts as they arose; mid-level officers sometimes contested civilian jurisdiction (see section 1.e.).

Senior police officials took the prohibition on torture and physical abuse seriously, but lack of supervision, training, and accountability throughout the law enforcement and corrections systems undercut efforts to contain the problem. Human rights groups reported repeated instances of physical abuse of detainees, including various forms of torture, beatings, and sexual abuse.

According to human rights organizations, both the National Police and prison officials used forms of torture. The method most often used was beating. Human rights organizations also reported asphyxiation with plastic bags to elicit confessions as a form of torture.

According to the National Commission on Human Rights, military and police officials reportedly harassed, beat, and randomly deported Haitians living in the border towns of Pedernales and Elias Pina (see section 2.d.).

Lawyers from the National District Prosecutor's Office monitored the investigative process to ensure that detainees' rights were respected in high-volume police stations and in several National Drug Control Directorate (DNCD) offices (see section 1.d.). There was some evidence that assistant prosecutors at times acquiesced in traditional police practices rather than attempt to raise these practices to constitutional standards. However, with the implementation of the new Criminal Procedures Code in September 2004, detainees received additional protections, and respect for detainee rights improved, including through increased enforcement of time limits for pretrial detention (see section 1.d.).

Both the National Police and armed forces offered training courses in human rights (see section 1.d.).

Prison and Detention Center Conditions.—Prison conditions ranged from poor to harsh. Reports of torture and mistreatment in prisons were common. The prisons were seriously overcrowded, health and sanitary conditions were poor, and some prisons were out of the authorities' control. Budget allocations for necessities such as food, medicine, and transportation were insufficient. Most inmates begged or purchased food from persons in the vicinity of the prison or obtained it from family members. Prisoners were not taken to their trials unless they paid bribes to the guards (see sections 1.d. and 1.e.), and visitors often had to bribe prison guards in order to visit prisoners. Prison officials accepted money in exchange for a recommendation that a prisoner be furloughed or released for health reasons. Prisons often did not provide adequate medical care to inmates. Prisoners immobilized by AIDS or who had terminal illnesses were not transferred to hospitals.

According to the Directorate of Prisons, the police and the military held approximately 13 thousand prisoners and detainees in 35 prisons with an intended capacity of approximately 9 thousand. Virtually all prisons experienced extreme overcrowding. La Victoria prison, the largest in the country, held more than 3,500 prisoners in a facility designed for 1 thousand and had only 354 beds for its inmates. Rafey prison held approximately 1,200 prisoners in a facility designed to hold 600.

Although a warden who reports to the attorney general was responsible for running each prison, in practice a police or military officer (generally appointed for a period of only three to six months and responsible for providing security) was usually in charge of the prison. Overcrowding was so severe that some prisons were totally out of the authorities' control and were, in effect, operated by gangs and armed inmates.

The press and human rights groups reported extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors.

There were a number of deaths due to negligence in the prisons. During a riot in March, armed rival gangs fought for control of a section of the Higüey prison called Vietnam. During the fight inmates set fire to a cellblock. At least 136 inmates died and 26 were injured. According to the National Police, firefighters could not reach the prisoners in time because inmates had jammed the locks with sand and other debris. While the Higüey prison was built to hold 80 inmates, the prison director reported that it held 426 inmates at the time of the fire. The burned cellblock, designed for no more than 40, held more than 150 inmates. The majority of the persons who died in the fire were in pretrial custody. Government officials announced that authorities would file murder charges against prisoners and law enforcement officials who were involved, and they arrested five inmates who were awaiting trial at year's end.

Although female inmates generally were separated from male inmates, there were some cases of male and female prisoners being held together. Half of the total female population was held in a female-only prison. Conditions in the female prison wings generally were better than those in male prison wings. There were some reports of guards physically and sexually abusing female inmates. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those

who gave birth while incarcerated were permitted to keep their babies with them for a year.

Juveniles often were detained with the general prison population. The authorities sometimes treated minors as adults and incarcerated them in prison rather than juvenile detention centers.

Pretrial detainees were held together with convicted prisoners. Inmates were not separated by crime within the prison population; however, they could be put into solitary confinement for disturbances while incarcerated.

The government permitted prison visits by independent human rights observers and by the press, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—Although the Criminal Procedures Code implemented in September 2004 prohibits detention without a warrant unless a suspect is apprehended in the act or in other limited circumstances, arbitrary arrest and detention continued to be problems.

Role of the Police and Security Apparatus.—The National Police, the National Department of Investigations (DNI), the DNCD, the Airport Security Authority (CESA), Port Security Authority (CESEP), and the armed forces (army, air force, and navy) form the security forces. The Ministry of the Interior and Police is responsible for making policy decisions affecting the police force. The military's domestic responsibilities include maintaining public order and protecting persons and property. The military, CESA, and CESEP are under the secretary of the armed forces; and the DNI and the DNCD, which have personnel both from the police and from the military, report directly to the president.

According to the National Commission on Human Rights, the military and police collaborated with their Haitian counterparts at the border to obtain bribes from Haitians attempting to cross illegally.

The Police Abuse Prevention Center (CEPRAPO) reported more than 40 cases of police abuse to the police Office of Internal Affairs. According to CEPRAPO, police officially responded to only two of these cases.

Police officers were fired for violent attacks, extortion, drug use, and trafficking. Significant problems of this nature remained, in part because of insufficient vetting of the backgrounds of police recruits. Many persons with prior criminal records allegedly were incorporated into police ranks, either under false names or with identification or recommendations from other state institutions, such as the army. Many members of the police force lacked basic education, had received inadequate training, and showed weak discipline, all factors that directly contributed to unlawful or unwarranted killings and to cruel or inhuman treatment (see section 1.a.).

The Institute of Human Dignity, a branch of the National Police, monitors human rights abuses committed by members of the National Police. The institute held more than 100 courses, seminars, and conferences, which were attended by members of the National Police, armed forces, and civilians. From January to September, more than 1,500 participants graduated from the police human dignity course.

Training for military and DNCD enlisted personnel and officers included instruction on human rights. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. Nearly seven thousand participants from the military and civil society received training during the year.

Systems for monitoring and sanctioning abuses of human rights remained ineffective.

Arrest and Detention.—The law provides that an accused may be detained for 48 hours before being presented to judicial authorities. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held; however, at times the police violated constitutional and legal provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit or detaining suspects without a warrant. Police often detained all suspects and witnesses in a crime and used the investigative process to determine who were innocent and merited release, and who they should continue to hold. Additionally police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess. These practices were employed less often after the new Criminal Procedures Code came into force.

Given the historical inefficiency of the courts (see section 1.e.), granting bail served as a de facto criminal justice system, and defendants awarded bail rarely faced an actual trial. Few defendants were granted bail, although bail became more common following implementation of the new Criminal Procedures Code, which requires judicial review of detentions at an earlier point in a criminal case.

Most detainees and prisoners did not have prompt access to a lawyer and could not afford adequate defense services. The National Office of Judicial Defense, with

foreign donor support, provided legal advice and representation to indigent persons. As of October the government's program to train public defenders had placed 80 public defenders in Santo Domingo, Santiago, and some smaller areas. The Supreme Court also paid 97 private lawyers across the country to provide part-time legal services to indigent defendants.

Police continued the practice of making sporadic sweeps or roundups in low-income, high-crime communities in which they arrested and detained individuals without warrant, allegedly to fight delinquency. During these sweeps, police arrested large numbers of residents and seized property, including motorcycles, other vehicles, and weapons. Prosecutors generally did not actively investigate cases; they often depended on police reports, many of which were based on forced confessions.

Local human rights observers reported roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly took groups of darker-skinned or "Haitian-looking" individuals to empty buildings soon after they were paid, in order to extort money from them.

There were no reports of political detainees.

Many suspects endured long pretrial detention. According to several reports, 66 percent of inmates were held without charges or while awaiting trial. The average pretrial detention was more than six months. Time served in pretrial detention counted toward a sentence.

Juveniles held at the Department for Minors at the Villa Juana police station commonly were held well beyond the 12-hour limit for sending the case to the district attorney's office. The law prohibits interrogation of juveniles by the police or in the presence of police; prosecutors and judges handle questioning.

The failure of prison authorities to produce the accused for court hearings caused a significant percentage of trial postponements (see section 1.e.). In addition inmates often had their court dates postponed because their lawyer or witnesses did not appear. The authorities held some inmates even though there were no formal charges against them.

A large backlog of criminal cases under the previous Criminal Procedures Code remained in the National District and throughout the country. The Supreme Court's plans to unlog the court dockets proceeded slowly due to budget constraints. Dockets were crowded with traffic infractions that, by statute, should have been heard in traffic courts; these courts had not been established, due to a lack of funds. Other complications in clearing the backlog arose from the lack of funds for transporting inmates to court. Many cases were rescheduled when the accused or key witnesses did not appear. In some instances a defendant would appear before the judge on the scheduled trial date, but the trial would not go forward due to the absence of one or more co-defendants. The decision of the trial judge to decline to try co-defendant cases separately prejudiced defendants who complied with the law.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, public and private entities continued to undermine judicial independence. The judiciary received training in the Criminal Procedures Code to help create and maintain professional standards, but undue influence remained a problem.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are specialized courts that handle tax, labor, land, and juvenile matters. The Supreme Court is responsible for naming all lower court judges according to criteria defined by law. The government established 17 of the 25 tribunals provided for by law and 5 courts of appeals for children and adolescents. The Code for Minors outlines the judicial system for criminal cases involving juveniles and family disputes.

Trial Procedures.—The law provides for a presumption of innocence, the right of appeal, and the right to confront or question witnesses. The law establishes a citizen's right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. The authorities commonly violated these rights.

Citizens have recourse to the remedy of *amparo*, an action to seek redress of any violation of a constitutional right, including violations by judicial officials. This remedy was rarely used, except by those with sophisticated legal counsel.

Until recently, military and police tribunals enjoyed exclusive jurisdiction over cases involving members of the security forces; however, some cases of killings allegedly committed during the year by members of the security forces were remanded to civilian criminal courts (see section 1.a.).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law contains provisions against arbitrary entrance into one's home except when police

are in hot pursuit of a suspect or when a suspect is caught in the act of committing a crime. Although all other entrances require a judge to issue an arrest or search warrant, the police conducted illegal searches and seizures. The Dominican Human Rights Committee reported that police carried out raids on private homes in many poor Santo Domingo neighborhoods.

Although the government denied using unauthorized wiretapping and other surreptitious methods to interfere with the private lives of individuals and families, human rights groups alleged continued interference. There was an active illegal private wiretapping industry.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals or groups generally were able to criticize the government publicly and privately without reprisal.

Newspapers and magazines presented a variety of opinions and criticisms. There were eight daily newspapers, a number of weekly newspapers, and several online news outlets. Editors at times practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

There were many privately owned radio and television stations, broadcasting a wide spectrum of political views. The government controlled one television station. International media were allowed to operate freely.

In February an editorial in a newspaper of limited circulation alleged that the government-operated Dominican Telecommunication Institute (Indotel) had suspended two television programs for criticizing a government project to construct a subway. Indotel denied this allegation.

There were occasional reports of harassment of journalists. In February two agents of the Metropolitan Transportation Police beat two photo journalists after they had allegedly run a red light. Witnesses said the transportation police used unwarranted force when one journalist attempted to take photos of the arrest of his colleague.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, but outdoor public marches and meetings require permits, which the government usually granted. On some occasions, when police officers used force to break up spontaneous demonstrations, they caused deaths and injuries, either to demonstrators or bystanders. In August police injured at least 10 demonstrators in Nagua who were seeking construction of basic city infrastructure. They also killed a 12-year-old bystander who received a shot in the head when police began shooting toward demonstrators.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The law prohibits discrimination on religious grounds, and many religions and denominations were active.

The Catholic Church enjoyed special privileges not extended to other religions, under the terms of a concordat. For example the Cardinal has the rank of a military general officer, and there is a Catholic chapel at the presidential palace. The Catholic Church also received public funding to cover some church expenses such as rehabilitation of church facilities.

Societal Abuses and Discrimination.—Relations among different religious congregations were harmonious, and society was generally tolerant with respect to religious matters. However, because Catholics enjoy some special treatment, there was resentment by non-Catholic groups towards Catholics.

The Jewish community is very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Although the law provides for these rights, and the government generally respected these provisions in practice, there were some exceptions. For example human rights groups alleged that many Haitians were not allowed to leave the sugarcane plantations where they worked (see section 6.e.). Local and international human rights groups charged that there was discrimination against Haitian migrants and that they were subject to arbitrary and unjustified action by the authorities (see section 5).

The law prohibits forced exile, and there were no reports of its use.

Haitians continued to immigrate in great numbers to the country in search of economic opportunity, and many of them were repatriated. Migration authorities and security forces conducted periodic sweeps throughout the year to locate and repatriate illegal migrants. Some of the Haitians removed from the country reported that they were denied the opportunity to demonstrate that they were legal residents, to make arrangements for their families or property, or to express a credible fear of persecution or torture if returned to Haiti. Migration officials and security forces sometimes destroyed and confiscated expellees' residency documents. In some cases expellees with appropriate legal documents received permission to return. Government officials stated that President Fernandez ordered the suspension of "mass repatriations" in June.

The constitution provides that anyone born in the country is a citizen, except those in transit or children born to diplomats. NGOs defending Haitians reported that children born of Haitian parents in the country often were denied registration as citizens under the transit exception, even when their parents had resided in the country for long periods of time (see section 5). In December the Supreme Court ruled that "in transit" status applied to children of illegal migrants.

The government's policy was that of strict enforcement of documentary requirements and repatriation of individuals found to be lacking documents. However, enforcement was selective and affected by dependence on Haitian labor for certain types of poorly paid work in agriculture and construction. Military officers and other officials exercised discretion, and many regularly collected bribes in return for releasing individuals suspected to be in irregular or undocumented status.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. This protection generally applied to individuals who gained access to the refugee process and had been issued proof that they were refugees or had applications pending. However, the government did not apply standards agreed upon with the office of the UN High Commissioner for Refugees (UNHCR) to improve receipt and adjudication of refugee claims. Although the UNHCR strengthened its protection activities in 2003 by re-establishing its presence in Santo Domingo, in July UNHCR withdrew its personnel and subsequently monitored migration and refugee issues from a regional office outside the country.

An applicant for refugee status must be referred by the National Office of Refugees in the Migration Directorate to the Technical Subcommittee of the National Commission for Refugees, which is chaired by the Foreign Ministry. The subcommittee has the responsibility of making a recommendation to the commission, made up of members from the Foreign Ministry, the DNI, and the Migration Directorate. The commission, with responsibility for the final decision on the application, includes the three members of the subcommittee, the legal advisor to the president and members from the National Police, the Ministry of Labor, and the Attorney General's Office.

As of October the Migration Directorate reported 267 applications awaiting decision, nearly all made by Haitians. Some of these cases had been pending since 2000. In April the National Commission for Refugees reviewed and granted asylum in five cases, three of which were submitted by members of the same family. This was the committee's first meeting in 10 years. According to the UNHCR, as many as 600 recognized refugees were living in the country, most of whom lacked documentation sufficient to obtain permission to work legally and to exercise other rights, such as obtaining documentation for their children.

The Union of Haitian Refugees in the Dominican Republic stated that authorities regularly issued Haitians requesting asylum a migration document, which the petitioners must renew every two months. The document cost approximately \$8 (250 pesos), a fee collected upon every renewal. The organization considered the document to be worthless because even Haitians bearing it were arrested and repatriated.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage. Active duty police and military personnel may not vote or participate in partisan political activity.

Elections and Political Participation.—In 2004 PLD candidate Leonel Fernandez won the presidency in an election described as generally free and fair by the Organi-

zation of American States, the National Democratic Institute, and the International Foundation for Electoral Systems, as well as by the government electoral board and the nongovernmental organization (NGO) Citizen Participation.

By law parties must reserve for women 33 percent of positions on their lists of candidates for the Chamber of Deputies and city councils; in practice the parties often placed women so low on the lists as to make their election difficult or impossible. Women held three cabinet posts in the Fernandez administration. There were 2 women in the 32-member Senate, 24 women in the 150-member Chamber of Deputies, and 5 women on the 16-seat Supreme Court.

Government Corruption and Transparency.—There were reports of, and a widespread perception of, corruption in government. The authorities lodged charges against a number of officials from the previous administration and individuals who had done business with them, and the courts convicted some of them.

In April the president appointed a Government Ethics and Anti-Corruption Commission with authority to receive allegations of corruption within the government and channel the complaints to the offices that had authority to investigate.

In 2004 Congress passed and the president promulgated a comprehensive law providing public access to government information. It allows limits on the availability of public information only under specified circumstances (such as to protect national security) and provides for a penalty of up to six months to two years in prison and a 5-year ban from positions of public trust for government officials who obstruct access to public information. A court may review the decision of an agency to deny access to information.

In September Congress ratified a free trade agreement that requires measures to prevent corruption in trade matters and to enhance transparency of government procurement.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Principal local groups included the Dominican Human Rights Committee, the National Human Rights Commission, and the Santo Domingo Institute of Human Rights. There were also several smaller organizations, both secular and religious, that addressed, among other things, women's rights, labor issues, and the rights of Haitians.

Even though a 2001 law created a human rights ombudsman's office with authority over public sector problems involving human rights, the environment, women's issues, youth issues, and consumer protection, selection of an ombudsman remained pending at year's end.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination based on race and gender, such discrimination existed, and the government seldom acknowledged its existence or made efforts to combat it.

Women.—Domestic violence continued to be a serious problem. Under the Law against Domestic Violence, the state can prosecute rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from 1 year to 30 years in prison and fines ranging from approximately \$20 to \$7 thousand (600 to 210 thousand pesos). Several newspaper articles alleged that society had become more violent, and many government officials and NGOs publicly denounced the problem. However, a lack of awareness and training of police, prosecutors, and investigators hampered action against crimes of domestic violence (as well as other types of crime). A local NGO estimated that 24 percent of women between the ages of 15 and 49 had been victims of physical abuse. According to the Secretariat of Women, from January to July, 94 women were killed in "crimes of passion" by their spouses or lovers, compared with 117 such victims in all of 2004.

The Secretariat of Women, as well as various NGOs, conducted outreach programs on domestic violence and legal rights. The Non-Violence Department of the Secretariat of Women received approximately 388 complaints of domestic violence during the year.

Female victims of abuse had few resources, although the NGO Piedra Blanca operated a shelter for battered women, and the Secretariat of Women supported operation of a center for victims of domestic violence in Bani, where victims of abuse could make a report to the police and receive counseling. In August the Attorney General's Office created the National Advisory Directorate for Victims, which coordi-

nates efforts of official and nongovernmental institutions that offer services to victims of violence including domestic and sexual abuse.

Rape was a serious and widely underreported problem. The penalties for committing rape are 10 to 15 years in prison (or 10 to 20 years in case of rape against a vulnerable person or under other egregious circumstances) and a fine of approximately \$3,300 to \$6,600 (100 thousand to 200 thousand pesos). The state may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against a spouse. In 2002, the last year for which official statistics were compiled, the Secretariat of Women reported more than 3,300 complaints of sexual abuse. Victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. The police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

Prostitution is legal, although there are some prohibitions against sex with minors, and it is illegal for a third party to derive financial gain from prostitution. However, the government usually did not enforce prostitution laws. Sex tourism was a serious problem in Sosua and Boca Chica. Human rights groups reported continuing prostitution in sugarcane work camps and areas outside of the capital. NGOs conducted programs on prostitution and child sexual exploitation for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups. Trafficking in women and children was a problem (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace, which was considered a misdemeanor and carried a possible penalty of 1 year in prison and a fine of up to \$333 (10 thousand pesos); however, union leaders reported that the law was not enforced, and sexual harassment was a problem.

Although the law provides that women have the same legal status as men, in practice women experienced discrimination. Traditionally, women have not enjoyed equal social and economic status or opportunity with men, and men held the majority of leadership positions in all sectors. In many instances women were paid less than men in jobs of equal content and requiring equal skill level. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders reported that pregnant women often were not hired, and that female employees who became pregnant sometimes were fired. There were no effective government programs to combat economic discrimination against women.

Children.—The government declared its commitment to children's rights and welfare and tried to increase protection for children, with emphasis on eliminating child labor. The Code for Minors, which was implemented in October 2004, established the National Council for Children and Adolescents (CONANI) as a noncabinet, decentralized public agency to coordinate public policy to protect children's human rights and to administer the code. While the law stipulates that CONANI is to receive at least 2 percent of the national budget and that a minimum of 5 percent of municipal government budgets must be devoted to projects to benefit children, this requirement was not met.

Education is free, universal, and compulsory for all minors through the eighth grade, but legal mechanisms provide only for primary schooling, which was interpreted as extending through the fourth grade. Although the Ministry of Education reported a 97 percent enrollment rate in grades 1 through 8 in 2004, a government study also estimated that the average grade level achieved by children in public schools was the fifth grade in rural areas and the sixth grade in urban areas. Children of Haitian descent, and those of undocumented citizens, experienced difficulties gaining acceptance to school due to their lack of official status (see section 5, National/Racial/Ethnic Minorities).

There were several government programs to provide medical care for children in public hospitals, but these programs, as well as all other medical programs, faced severe budget limitations.

Abuse of children, including physical, sexual, and psychological abuse, was a serious problem. According to a CONANI employee, the Santo Domingo District Attorney's Office received up to 25 reports of child abuse per day. CONANI asserted that 3 of every 10 children in Santo Domingo had been sexually abused. Few such cases reached the courts due to fear of family embarrassment, lack of economic resources, or lack of knowledge regarding available legal assistance. The Santo Domingo District Attorney's Office reported that in 85 percent of abuse cases, the accused was a person close to the child, such as a family member or close family friend. The law provides for removal of a mistreated child to a protective environment.

In February CONANI asked the attorney general to carry out an investigation of Hogar Luby, a home for disabled children in Santo Domingo, based on allegations

of child abuse, neglect, and misuse of funds. As of September the owner of the home had gone into hiding, and the investigation was inactive.

In a highly publicized October 2004 case, 12 persons were accused of sexually abusing at least 29 young children at a shelter in Higüey. They were held in preventive detention, and in March two of the accused died in the Higüey prison fire (see section 1.c.). In July a judge of instruction dismissed the charges, and the attorney general appealed the dismissal. At year's end six of the accused were free on bail, one had died from heart failure, and the remaining three suspects were in detention awaiting the outcome of the appeal.

According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. The law contains strengthened provisions against the problem areas of child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor (see sections 5, Trafficking and 6.d.). The law provides penalties of between two and five years' incarceration and a fine of three to five times the monthly minimum wage for persons found guilty of abuse of a minor. The penalty is doubled if the abuse is related to trafficking.

Trafficking and sexual exploitation of children within the country were problems, particularly in popular tourist destinations (see section 5, Trafficking). Adolescent girls and boys from poor families sometimes were enticed into performing sexual acts by the promise of food or clothing.

Child labor was a serious problem in the informal sector of the economy (see Section 6.d.).

Trafficking in Persons.—Although the law prohibits trafficking in persons, there were reports that women and children were trafficked to, from, and within the country.

The law includes penalties for traffickers of 15 to 20 years' imprisonment and a fine of up to 175 times the monthly minimum wage. The Code for Minors provides penalties for sexual abuse of children of 20 to 30 years' imprisonment and fines from 100 to 150 times the minimum wage.

The attorney general's antitrafficking unit coordinated the investigation and prosecution of trafficking cases. Units at the National Police, the Migration Directorate, and the Attorney General's Office targeted trafficking in persons, as did the inter-agency Committee for the Protection of Migrant Women. The Migration Directorate created an antitrafficking department, which coordinates with the Attorney General's Office and the National Police to find and prosecute persons dedicated to trafficking women for prostitution and commercial sexual exploitation.

The International Organization for Migration (IOM) estimated that 50 thousand Dominican women worked in prostitution around the world and of these women, one third were victims of trafficking.

Principal destination countries were in Europe, the Caribbean, and Latin America, and included Argentina, Australia, Austria, Brazil, Costa Rica, Germany, Greece, Italy, the Netherlands, Panama, Spain, St. Maarten, and Switzerland. Japan became a new destination for trafficking, while traffickers in the Caribbean strengthened their networks. Women 18 to 25 years of age were at the highest risk of being trafficked. Many victims were uneducated single mothers desperate to improve the living conditions of their children.

Within the country, the prostitution of minors, primarily in the tourist areas, was a problem. An official 2003 study estimated that 50 to 60 Haitian children were trafficked into the country each week and that many Haitian girls age 12 and older were brought into the country to work as prostitutes.

In April DNI dismantled a child prostitution and pornography ring in Sosua that had posted sexually explicit photos of young children on the Internet. Police arrested two men. At the request of the attorney general, police closed down several bars, nightclubs, and "massage parlors" in Santiago, Santo Domingo, and Boca Chica used for child prostitution and sexual exploitation of women.

In May a judge convicted and sentenced 3 men to 15 years in prison under the antitrafficking law for sexually exploiting 24 children in Boca Chica in 2004. As of October a fourth suspect was in detention and awaiting trial.

NGOs estimated that there were hundreds of alien smuggling and trafficking rings operating within the country. According to the NGO Center for Integral Orientation and Investigation (COIN) and the IOM, trafficking organizations were typically small groups. Individuals in the country recruited the persons to be trafficked and obtained identification and travel documents. Traffickers frequently were introduced to women through friends and family; they promised some form of employment, obtained false or legitimate documents for the women, and often retained their passports once in the destination country. Trafficking organizations reportedly

received \$5 thousand to \$8 thousand (150 thousand pesos to 240 thousand pesos) for trafficking a woman for purposes of prostitution.

Some elements within the tourist industry facilitated the sexual exploitation of children. Particular problem areas were Boca Chica, Puerto Plata, and Sosua. Europeans overseas marketed tours by suggesting that boys and girls could be found as sex partners.

In March the Supreme Court resumed proceedings in the trial of Congressman Guillermo Radhames Ramos Garcia (formerly a consul in Cap Haitien, Haiti) on charges of alien smuggling. Because of Ramos Garcia's status as a congressman, the case was assigned directly to the Supreme Court. The Supreme Court found Ramos guilty and sentenced him to 18 months in prison. He was paroled in October after completing nine months and eight days of his sentence, including periods of pretrial detention. Two co-defendants were found guilty and sentenced to time served.

The government made efforts to investigate, fire, and prosecute when appropriate public officials who facilitated, condoned, or were complicit in trafficking activities or migrant smuggling. NGOs alleged corruption among the military and migration officials stationed at border posts and noted that these officials sometimes facilitated the illegal transit of Haitian workers into the country to work on sugar plantations and construction sites (see sections 2.d. and 6.c.). There were also elements within the Migration Directorate and the National Police that organized or facilitated the smuggling of aliens through the international airports.

The government provided limited assistance to trafficking victims by working with NGOs to develop job-training programs for returned women. When trafficked individuals were repatriated from abroad, they were given a control record that went into their official police record and were interviewed by a migration inspector. According to COIN, most victims were too embarrassed or frightened to seek legal action against traffickers and victims received no psychological counseling. COIN worked to develop relationships with embassies and consulates that serve trafficked victims and with other NGOs in destination countries that serve similar populations. There were several church-run shelters that provided refuge to children who escaped prostitution.

COIN and the IOM counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other problems, including the dangers of trafficking, forced prostitution, and domestic servitude. COIN administered the Center for Health and Migration Information for Migrant Women, which carried out community education campaigns in high risk areas on various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude. With IOM support, COIN also provided a minimal level of clinical services and adult education classes for returned women.

Persons with Disabilities.—Although the law prohibits discrimination against persons with disabilities, they encountered discrimination in employment and in the provision of other services. While the law provides for physical access for persons with disabilities to all new public and private buildings, the authorities did not enforce this law. The Dominican Association for Rehabilitation, which has 17 branches around the country, receives a subsidy from the Ministry of Public Health to provide rehabilitation assistance to persons with disabilities. Little effort was made to design public works to accommodate persons with disabilities.

Discrimination against persons with mental illness was common, and there were few resources dedicated to the mentally ill.

CONANI charged that a home for disabled children was abusing and neglecting them. As of October authorities were investigating the case (see section 5, Children).

National/Racial/Ethnic Minorities.—There was racial prejudice targeting persons of dark complexion, but the government did little to address the problem. As a result, acts of discrimination were common, ranging from the petty to the more serious. In particular there were strong prejudices against Haitians, which disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of dark complexion (see sections 1.d. and 2.d.). Few government officials acknowledged the existence of this discrimination; others regularly and publicly asserted that there was no discrimination against Haitians or other persons of dark complexion.

Efforts by the authorities to stem the influx of illegal Haitian immigrants made life more difficult for those Haitians already in the country legally. Police regulations permit the confiscation of vehicles offering transportation to illegal immigrants, thereby discouraging taxi and bus drivers from picking up darker-skinned persons. In roundups aimed at illegal immigrants, the authorities picked up and expelled darker Dominicans as well as legal Haitian residents (see section 1.d.).

The IOM estimated that approximately 650 thousand Haitian immigrants—or 7.5 percent of the country's population—lived in shantytowns or sugarcane work camps known as *bateyes*, which were harsh environments with limited or no electricity, usually no running water, and no adequate schooling. Although some Haitians were brought to the country specifically to work in sugarcane camps, many had no documentation. Human rights NGOs, the Catholic Church, and activists described Haitian living conditions in *bateyes* as modern-day slavery. In most *bateyes*, medical assistance either was rudimentary or not readily available. Housing in the *bateyes* was poor; many individuals slept in barracks on iron beds without mattresses or on dirt floors. Many families of 5 or more shared living quarters that measured as little as 10 by 9 feet. Bathroom facilities, where available, were generally unhygienic, and cooking facilities were usually improvised. The availability of fresh food, including fruits and vegetables, was severely limited. Clean water was often unavailable.

Some individuals estimated that as many as one million Haitians lived in the country, many illegally, but several Haitian rights NGOs were concerned that this estimate included Haitians born in Haiti and their offspring born in the Dominican Republic. The civil registry authorities regularly refused to recognize and document as citizens many individuals of Haitian ancestry born in the country (see section 2.d.). Since many Haitian parents never possessed documentation of their own births, they were unable to demonstrate their own citizenship or that of their children.

On October 8, the Inter-American Court of Human Rights found against the government in a case brought on behalf of two Dominican girls of Haitian ancestry to whom government registrars had refused to provide birth certificates. Plaintiffs had lodged the case with the Inter-American Human Rights Commission in 1998, and when mediation failed to achieve an amicable solution in 2001, including changes to laws and procedures, the commission referred the case to the court. A December 12 press release quoted the foreign minister as saying that even though the verdict against the country was unjust, the country would pay as instructed by the court.

Although a legal ordinance allows undocumented children to attend school through the fifth grade, some school administrators denied undocumented children access to school, particularly those who appeared to be of Haitian ancestry. NGOs reported that undocumented Haitian children were prevented from enrolling in school to a greater degree than were similarly undocumented Dominican children.

When permitted to attend primary school, the children of poor Haitian parents, like poor Dominican children in the same *bateyes*, rarely progressed beyond the sixth grade.

Other Societal Abuses and Discrimination.—Persons with HIV/AIDS, particularly women, faced discrimination in the workplace and elsewhere. An estimated 50 thousand to 100 thousand persons in the country were infected with the disease. According to Human Rights Watch, workers in many industries faced involuntary HIV testing in the workplace or when seeking medical care or medical insurance. Workers or patients found to have the disease could be fired from their jobs or denied adequate healthcare. Although the law prohibits the use of HIV testing to screen employees or for medical services unrelated to the disease, this law rarely was enforced.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the freedom to organize labor unions, and all workers, except the military and the police, were free to form and join unions of their choice. Organized labor represented an estimated 8 percent of the work force. The law calls for automatic recognition of a union if the government has not acted on its application within 30 days.

Although the law forbids companies to fire union organizers or members, it was enforced inconsistently, and penalties were insufficient to deter employers from violating worker rights. There were additional reports of harassment and intimidation by employers in an effort to prevent union activity, especially in the free trade zones (FTZs) (see section 6.b.). The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) reported additional incidents of antiunion activity at the FM company in Santiago, 1 of 13 production facilities belonging to apparel manufacturing firm Grupo M, one of the largest private sector employers in the country. FM company management conducted a public campaign against union organizers and affiliates, which included the creation of a rival union favoring company policies. As of October, a decision on the legality of this group was pending.

b. The Right to Organize and Bargain Collectively.—Collective bargaining is legal and must be used in firms in which a union has gained the support of an absolute majority of the workers. Few companies have collective bargaining pacts, and the

International Labor Organization (ILO) considered the requirements for collective bargaining rights to be excessive and an impediment to collective bargaining.

The law establishes a system of labor courts for dealing with disputes. While cases did make their way through the labor courts, the process was often long and cases remained pending for several years.

The law provides for the right of most workers to strike (and for private sector employers to lock out workers), but formal strikes were not common. Formal requirements for a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike.

Government workers and essential public service personnel are not allowed to strike. Despite this prohibition, government-employed physicians of the Dominican Medical Association went on strike repeatedly throughout 2004 and during the first half of the year for periods ranging from one day to one week, insisting on salary increases and improvements in resources for government-run hospitals. The health minister and eventually the president became directly involved in these labor negotiations. The government did not propose any sanctions against those who had disregarded the legal prohibition on strikes. In October the president and health minister signed an agreement with the Dominican Medical Association president, undertaking, among other items, to provide salary increases in 2007. The agreement met the association's principal demands.

A few labor unions represented a small number of Haitian workers, who are covered by the Labor Code regardless of legal status. Various NGOs reported that the majority of Haitian laborers in the sugar and construction industries did not exercise their rights, fearing deportation or job loss.

The Labor Code applies in the 40 established FTZs, which employed approximately 175 thousand workers. According to the National Council of Labor Unions, only four of the unions that had achieved collective bargaining agreements in the FTZs were active. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large, although working conditions were sometimes better and the pay was occasionally higher. Mandatory overtime was a common practice, and it was sometimes enforced through locked doors or loss of pay or employment for those who refused (see section 6.c.).

There were reports of widespread covert intimidation by employers in the FTZs in an effort to prevent union activity (see section 6.a.). Unions in the FTZs reported that their members hesitated to discuss union activity at work, even during break time, for fear of losing their jobs. Some FTZ companies were accused of discharging workers who attempted to organize unions. The majority of the unions in the FTZs were affiliated with the National Federation of Free Trade Zone Workers (FENATRAZONAS) or FEDOTRAZONAS (see section 6.a.). FEDOTRAZONAS estimated that less than 10 percent of the workers in the FTZs were unionized. Employer resistance to union organization, especially in the FTZs, increased in response to growing competitive pressure from firms in Asia. Industry observers estimated that 30 thousand jobs had been lost in the sector as a result.

Many of the major manufacturers in the FTZs had voluntary codes of conduct that included worker rights protection clauses generally consistent with the ILO Declaration on Fundamental Principles and Rights at Work. Workers were not always aware of such codes or the principles they contained.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 5). Some young children, particularly Haitians, were “adopted” by families and worked under a kind of indentured servitude (see section 6.d.). There were also reports that workers in sugarcane plantations were prevented from leaving during the harvest (see section 6.e.).

d. Prohibition of Child Labor and Minimum Age for Employment.—While the law prohibits employment of children less than 14 years of age and places restrictions on the employment of children under the age of 16, child labor was a serious problem. The Central Bank's Statistics Department estimated that 15 percent of children between the ages of 14 and 17 engaged in some sort of work. Regulations applying to children between the ages of 14 and 16 limited the number of hours worked daily to 6, prohibited employment in dangerous occupations or in establishments serving alcohol, and limited nighttime work. Fines and legal sanctions may be applied to firms employing underage children. While the government effectively enforced these regulations, child labor was largely a problem in the informal sector beyond regulatory reach.

The high level of overall unemployment and the lack of a social safety net created pressures on families to allow or encourage children to earn supplemental income. Tens of thousands of children began working before the age of 14. Child labor took place primarily in the informal economy, small businesses, clandestine factories, sugarcane fields, and places of prostitution. Conditions in clandestine factories were generally poor, unsanitary, and often dangerous. There was evidence that poor Haitian and Dominican adolescents accompanied their parents to work in sugarcane fields, with the tacit approval of sugar companies. Children 12 years old and younger also worked planting sugarcane, earning as little as \$1 (30 pesos) for a full day of labor.

Some poor Haitian families arranged for Dominican families to "adopt" and employ their children, in hopes of assuring a more promising future for them. The adopting parents usually registered the child as their own. In exchange the birth parents received monetary payment or a supply of clothes and food. In many cases adoptive parents did not treat the adopted children as full family members and expected them to work in the households or family businesses rather than to attend school. This resulted in a kind of indentured servitude for children and adolescents.

The Ministry of Labor, in collaboration with the ILO's Program for the Eradication of Child Labor and other international labor rights organizations, continued programs to combat child labor. These included programs to eliminate child labor in the tomato-producing province of Azua, the coffee-growing province of San Jose de Ocoa, and the agricultural province of Constanza, and a program to combat the commercial sexual exploitation of minors in popular tourist destinations. The Ministries of Labor and Education continued to support the Combating Child Labor through Education Program, which established several camps that hosted more than one thousand children and adolescents. An ILO and Ministry of Labor program in Boca Chica to combat commercial sexual exploitation of minors provided psychological support and medical assistance, returned children to classrooms, and reunited children with their families and communities whenever possible. The program also provided legal assistance to child victims in order to arrest and convict exploiters. The Ministry of Education provided a subsidy of \$17 (500 pesos) monthly to the poorest families to keep their children in school and away from work. The Armed Forces sponsored a program to rescue, supervise, and rehabilitate victims of child labor or those at risk and operated several walk-in programs and a permanent "village" that provided room, board, and educational activities.

There were no confirmed reports of forced child labor in the formal sector.

e. Acceptable Conditions of Work.—The executive branch sets minimum wage levels for public workers, and the National Salary Committee sets levels for the private sector, with the exception of workers in the FTZs and the sugar, construction, hotel, and shoe manufacturing industries. The minimum monthly salary was approximately \$119 (3,561 pesos) in the FTZs and \$164 (4,920 pesos) outside the FTZs. The minimum wage for the public sector was approximately \$64 (1,906 pesos) per month. The minimum wage for farm workers who are covered by minimum wage regulations was approximately \$0.43 an hour (13 pesos), based on a 10-hour day. The national minimum wage did not provide a decent standard of living for a worker and family.

The law establishes a standard work period of 44 hours per week and stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. The law provides premium pay for overtime, which was mandatory at some firms in the FTZs.

On sugar plantations, cane cutters usually were paid by the weight of cane cut rather than the hours worked. Observers suspected fraud at some weighing stations, and noted that employers sometimes did not provide trucks or carts to transport the newly cut cane at the end of the workday, causing workers to receive lower compensation because the cane dried out and weighed less. The amount of cane a worker could cut varied, but many cane cutters earned less than \$2.50 (75 pesos) per day. Workers were paid every two weeks with tickets that were exchangeable for cash only in centers that often were far away. Workers who used the tickets to purchase items at private stores located on the plantations often had to pay a 10 percent "service charge." Starting in December, however, workers were no longer paid in tickets but directly in cash.

Conditions for agricultural workers were poor, particularly in the sugar industry. Most sugarcane worker villages lacked schools, medical facilities, running water, and sewage systems, and had high rates of disease. Company-provided housing was sub-standard (see section 5). Approximately 83 percent of sugarcane workers were Haitian or of Haitian descent. In various sugarcane industry shantytowns, field guards reportedly kept workers' clothes and documents to prevent them from leaving until the end of the harvest. Employers also withheld wages to keep workers

in the fields. Sugarcane workers often did not receive medical services or pensions due them even though deductions were taken from their pay.

The Diocese San Pedro de Macoris developed a proposed model work contract and submitted it to the Vicini Consortium and other companies in 2001. The companies did not adopt the contract, but the consortium continued to improve working and living conditions of sugarcane workers. The Diocese continued to promote Haitian worker rights in the *bateyes* and to seek a work contract for Haitian workers. Officials of the association of sugar industries regularly criticized the priest heading this effort, and newspapers carried unfounded allegations that he had encouraged workers to destroy property.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. The Secretariat of Labor had 185 active inspectors. Inspector positions customarily were filled through political patronage, and inspectors typically took bribes from businesses. Workers complained that inspectors were not trained and did not respond to health and safety complaints. While the law requires that employers provide a safe working environment, in practice workers could not remove themselves from hazardous working situations without losing their jobs.

ECUADOR

Ecuador is a constitutional republic with a population of approximately 13 million. In 2002 voters elected Lucio Gutierrez president in generally free and fair elections. In April following large-scale protests in Quito and the public withdrawal of support by the military, Congress voted to remove President Gutierrez. Vice President Alfredo Palacio assumed the presidency to finish Gutierrez's term. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were serious problems in some areas. The following human rights problems were reported:

- unlawful killings and use of excessive force by security forces
- torture, abuse, and killing of suspects and prisoners by security forces, often with impunity
- poor prison conditions
- arbitrary arrest
- high number of pretrial detainees
- corruption and denial of due process within the judicial system
- attacks on those publicly critical of former President Gutierrez
- violence against women
- pervasive discrimination against women, indigenous people, Afro-Ecuadorians, and homosexuals
- trafficking in persons and sexual exploitation of minors
- widespread child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Although the government or its agents did not commit any politically motivated killings, there continued to be credible reports that security forces used excessive force and committed unlawful killings.

On August 5, police arrested Washington Enrique Vilela Barra and Luis Antonio Cevallos Barre. The bodies of the two detainees were found the following day. A police court judge ordered the detention of police officer Freddy Abel Rizzo Barzola and a case against him in the police courts continued. Another officer involved remained a fugitive at year's end.

On September 13, media outlets and the Ecumenical Human Rights Commission (CEDHU) reported that military officers patrolling the northern province of Sucumbios opened fire with no warning on a vehicle, killing Servio Pena Jimenez and seriously injuring Ramon Zamora Zamora. The district attorney charged four army officers in the case: Angel Chuya, Carlos Badillo, Benito Tangamashi and

Jorge Zamora. Military authorities detained the four officers and the Sucumbios attorney general initiated the formal investigation.

There were no developments in the March 2004 killing of Luis Alfonso Ortiz Rodriguez. The policeman who killed Ortiz while investigating a domestic dispute remained in prison pending an investigation to determine whether the killing was accidental.

There were no developments in the July 2004 investigation of the alleged police killing of Erik Fabricio Lopez Yanez. The policeman and his brother remained in jail pending the outcome of the investigation.

In the 2003 Fybeca case in which police shot and killed eight persons in a drugstore in Guayaquil and subsequently arrested three persons who disappeared, a police court absolved police Sergeant Sergio Gaybor of guilt in February (see section 1.b.).

There were reports that prison guards killed inmates during the year (see section 1.c.).

There were cases of mob violence against suspected criminals, which occurred particularly in indigenous communities and poor neighborhoods of major cities, where there was little police presence (see section 1.e.). However, CEDHU reported that there were fewer incidents of mob violence than in years past.

b. Disappearance.—There were no reports of politically motivated disappearances.

In 2003 Jhonny Gomez, Cesar Mata, and Edwin Vivar disappeared after police detained them during a robbery of a Fybeca drugstore in Guayaquil. Although police denied holding the men, newspaper photographs showed a policeman and a former policeman leading a man away from the scene with his face covered. In April and May 2004 the widows of the three and a local journalist were threatened. Police courts acquitted all 21 suspects, including police sergeant Sergio Gaybor in February (see section 1.a.).

Criminal kidnapping for profit continued to be a problem throughout the country. There were also reports of extortion and threats of kidnapping of ranchers, farmers, and businessmen along the northern border with Colombia. By year's end police registered 92 individuals arrested for kidnapping; however, there were no reliable estimates of the total number of such extortions or kidnappings, often attributed to Colombian armed gangs, since many victims did not report the crimes for fear of retribution.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the law prohibits torture and similar forms of intimidation and punishment, some police continued to torture and abuse suspects and prisoners, often with impunity.

In November the UN Committee Against Torture announced that the country's laws on torture do not meet standards set within the UN's Convention Against Torture. The UN reported that violators of human rights often were penalized with a fine, rather than incarceration.

Through December CEDHU registered alleged cases of torture by security forces involving 24 victims. In most cases, the security forces appeared to have abused such persons during investigations of ordinary street crime or because of a personal grudge. The victims reported that the security forces beat them and threatened them.

On March 25, transit police arrested and detained Roland Montoya Chavez for not carrying his driver's license while driving. According to a credible nongovernmental organization (NGO), police beat Montoya on March 25 and 26 in front of other prisoners who signed a statement that they witnessed the abuse. Police authorities detained officer Christian Duque for 24 hours as stipulated under police regulations.

Police academy students accused police lieutenants Javier Proano and Javier Torres of beating, insulting, and inflicting other physical injury on up to 160 police academy students since March. Police authorities decided the accusations against the two officers were false after an investigation in which no students testified.

The Popular Combatants Group and the Peoples' Revolutionary Militia continued to detonate small pamphlet bombs, principally in the major cities. There were no reported serious injuries.

Prison and Detention Center Conditions.—Conditions in prisons and detention centers generally were poor and tended to be worse in the tropical coastal areas than in the temperate highlands. Overcrowding was a chronic problem in most facilities. According to the National Social Rehabilitation Board (CONAR), as of December 12,394 prisoners nationwide were held in facilities built to hold 7,463. A number of prisons experienced serious outbreaks of disease, and medical care often was inadequate. The daily amount allocated for prison rations was one dollar per inmate. Strikes by prisoners in various centers were frequent during the year.

CONAR reported that 45 prisoners died through December, compared with 58 in 2004. Thirteen resulted from illness, 17 resulted from serious injury, 4 were suicides, and 11 did not have causes attributed. According to a credible NGO, in September prison guards shot and killed inmates Johnny Garcia, Luis Mora, Juan Cajape, and Jaime Sanchez in the Guayaquil prison. While the guards accused the inmates of attempting to escape, other inmates refuted this account and testified that the guards had beaten the four inmates before killing them. An investigation initiated by the attorney general was ongoing at year's end.

Conditions were notably better in the women's prison in Quito than in men's facilities. Approximately 400 children of female inmates lived in prison with their mothers at year's end. Pretrial detainees were held with convicted prisoners.

Although the government permitted prison visits by independent human rights observers in most instances, in some cases, human rights observers were not permitted to visit prisoners who had been placed in isolated cells after they allegedly had been beaten.

d. Arbitrary Arrest or Detention.—While the law prohibits arbitrary arrest and detention, the authorities at times violated these prohibitions in practice.

Role of the Police and Security Apparatus.—The National Police are under the authority of the Ministry of Government. The effectiveness of the National Police was uneven, in part, due to its insufficient training, supervision, and resources. Some municipalities, such as Quito and Guayaquil, have their own metropolitan police forces in addition to the National Police. A police internal affairs office investigates complaints against police officers and can refer cases to the police courts. NGOs claimed that members of the Quito and Guayaquil metropolitan police occasionally used excessive force. Police corruption was sometimes a problem. The former chief director of the National Police was under investigation for allegedly facilitating alien smuggling.

The National Police contracted with NGOs to provide human rights training. A 2004 Amnesty International report continued to criticize the use of the police court system, which resulted in impunity for police officers who committed human rights violations.

Arrest and Detention.—The law requires authorities to issue specific written arrest orders within 24 hours of detention, and authorities must charge the suspect with a specific criminal offense within 48 hours of arrest. Within 48 hours of arrest, all detained persons may challenge the legality of their detention by petition to the senior elected official of the locality in which detention takes place. However, few such petitions were made in practice.

In the case of an illegal detention, mayors have the right to release the detainee. Otherwise, a prisoner may be released only by court order. In some cases detainees who are unaware of this provision, or who do not have the funds to hire a lawyer, may remain in prison for an extended period without being tried before being released. Bail generally was not available, and the law prohibits it in cases of narcotics and major offenses (offenses that "affect or put at risk" the public, punishable by 3 to 35 years' imprisonment).

Although the law entitles detainees to prompt access to lawyers and family members, delays varied depending on the circumstances and officials' willingness to enforce the law; alleged narcotics traffickers commonly waited 24 to 48 hours for these visits. Detainees with sufficient resources often bribed prison officials to facilitate access.

Although the law prohibits incommunicado detention, human rights organizations continued to report occasional violations. Even when police obtained a written arrest order, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges.

There were no reports of political detainees.

Investigative detention up to and including trial is legal if a judge determines that it is necessary and if evidence that a crime has been committed is presented. The law limits immediate detention to 24 hours for *in flagrante* crimes or to allow for investigative detention. Preventive detention is limited to 6 months for minor offenses and 12 months for major offenses. However, the law permits prisoners to be held for an indefinite period after indictments have been issued but before they have been convicted or sentenced. The majority of the accused remained in prison during the investigation phase. More than 60 percent of the detainees in jail had not been sentenced, and approximately 10 to 15 percent had been tried, but not sentenced.

e. Denial of Fair Public Trial.—While the law provides for an independent judiciary, in practice, the judiciary was susceptible to outside pressure and corruption.

The judiciary is composed of the Supreme Court, superior circuit courts, other courts and tribunals that hear cases in accordance with the constitution and other laws, and the Judicature Council, which is charged with administering the court system and disciplining judges. There also are military and police tribunals that have the same status as circuit courts, as well as criminal, provincial, and cantonal (county) courts. The Supreme Court supervised the selection by open competition of all appellate judges.

In February the Inter-American Commission on Human Rights held a general hearing on the appeal brought by 27 justices of the Supreme Court who were replaced by Congress in December 2004. The commission did not reach a decision on the petition's admissibility, and there were no further developments by year's end. President Gutierrez dissolved the court days before his ouster in April following the court's decision to drop corruption charges against two former vice presidents and former President Abdala Bucaram. In May Congress passed legislation to select a commission to designate a new court and in November the commission named a new Supreme Court in a process widely viewed as transparent. The Constitutional Tribunal has been dissolved since December 2004.

Trial Procedures.—Despite ongoing efforts to modernize the court system, the judiciary continued to operate slowly and inconsistently. There were lengthy delays before most cases came to trial. Judges reportedly rendered decisions more quickly or more slowly as a result of political pressure or, in some cases, the payment of bribes. The failures of the justice system contributed to cases in which communities took the law into their own hands, such as mob violence against suspected criminals (see section 1.a.).

There are no juries in the justice system. Defendants are presumed innocent until proven guilty and have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and confront and cross-examine witnesses. Although a public defender system exists, in practice only 32 attorneys were available to defend the large number of impoverished suspects throughout the country.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court often did not pursue cases or announce verdicts and punishments, reinforcing the impression that police were immune from prosecution. While the constitution places both police and military justice under the regular judicial system, the systems remained separate.

Although the law recognizes indigenous communities' right to exercise their own system of justice based on their traditions and customs, it does not specify its implementation. This parallel system raised questions of both jurisdiction and conformity to the right to a fair trial.

Political Prisoners.—There were no reports of political prisoners, although some alleged that former President Gutierrez was being held in preventive detention as a political prisoner (see section 2.a.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Although wiretapping by the national police to investigate crimes is legal with a court order, there is no specific procedural guidance for obtaining such approval.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—While the law provides for freedom of speech and of the press, and the government generally respected these rights in practice, there were some significant exceptions. Some individuals who publicly criticized former President Gutierrez were violently attacked as a result, and in most cases, there were no arrests. Gutierrez also publicly vilified the media and called press freedoms excessive. Government relations with the media improved under President Palacio. There were no high profile cases of public figures bringing criminal charges against journalists during the year.

On January 26, persons active in the University Leftist Revolutionary Front, an armed group with ties to the MPD political party, violently attacked former vice president Leon Roldos Aguilera while he was giving a speech at the Central University. While an initial investigation identified the planners of the attack and initiated an indictment, the Criminal Court had yet to decide the case by year's end.

On February 4, a dynamite attack on the Radio Canela radio station in Macas resulted in substantial property damage. Station owner Wilson Cabrera claimed the attacks were the result of his station's criticism of the government. While there were no arrests in this case by year's end, a preliminary investigation continued.

On March 7, 80 members of the pro-Gutierrez movement "Zero Corruption" invaded and vandalized the offices of the NGO Citizen Participation. The prosecutor decided not to proceed with the case and there were no arrests as of year's end. Citizen Participation appealed to a local criminal judge, and a public hearing was pending.

On March 22, Oswaldo Gallo, a reported member of "Zero Corruption" attacked president of the Federation of Judicial Workers Luis Munoz. Despite the initiation of a penal process against Gallo, the head of the Supreme Court at the time ordered that Gallo be freed, and the investigation was discontinued.

Civil liberties were suspended on several occasions by the government in declarations of emergency targeting specific regions. President Gutierrez declared a state of emergency in Quito on April 15 lasting less than 24 hours, which included suspension of certain civil rights, including freedom of speech and expression. On August 17, President Palacio decreed a state of emergency in the northeastern provinces of Sucumbios and Orellana (see section 2.b.). The decree's measures included suspension of freedom of expression and association, which largely were not enforced.

Following former President Gutierrez's ouster in April, he made statements abroad claiming to be the country's legitimate leader. Because of these statements, authorities charged him with undermining the security of the state. Upon his return to the country in October, Gutierrez was placed in preventive detention where he remained at year's end.

Government censorship and self-censorship occurred in both the print and broadcast media, particularly with respect to politically sensitive issues or stories about the military and industries connected with the military.

Most elements of the media also were influenced by economic considerations and tended to reflect the narrow, regional interests of their owners. Business and private interest pressures on the media sometimes constrained freedom of the press.

The government invoked a law obliging the print media to provide it free space and requiring television and radio to broadcast government-produced programs featuring the president and other top administration officials.

There were no developments in the September 2004 case concerning President Gutierrez's request that the Public Ministry conduct a formal inquiry into allegations by prominent radio director Diego Oquendo that Gutierrez accepted money from a Colombian guerilla group.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of peaceful assembly, and the government generally respected this right in practice, security forces used force and tear gas to quell some violent demonstrations, resulting in one death and several injuries.

Public rallies require prior government permits, which generally were granted, although exceptions occurred.

During the year numerous labor, indigenous, and student demonstrations took place in the capital and the outlying regions.

On March 10, police entered the Amazonas School in Quito and shot tear gas at protesting students. According to a credible NGO, one tear gas canister hit the face of 17-year-old Kirmar Cantuna and entered his skull, causing serious injury. Cantuna's family reached an out of court settlement with the Ministry of Government and did not press charges.

On March 11, police entered the Jorge Mantilla Ortega School in Quito to break up a protest. According to a credible NGO, the police pushed Sandra Chica from a second story window, and she sustained serious injuries. An initial investigation by the attorney general was underway at year's end.

In April large-scale protests in Quito led to the ouster of President Gutierrez. The Red Cross reported that 417 persons were injured during these protests, mainly due to inhalation of tear gas. In August there were also widespread protests in the Amazonian provinces of Orellana and Sucumbios.

On April 13, Congressional guards placed Roberto Navas and other student protesters in a police van where they beat the students, according to a credible NGO. The police also reportedly sprayed tear gas in the students' faces and mouths and threatened to rape them. After intervention from CEDHU, the officials released the students. There was no formal complaint filed and no investigation of this case.

On April 19, Chilean journalist Julio Garcia Romero, who was covering the anti-Gutierrez protests, had a heart attack after being exposed to tear gas. The case remained under investigation at year's end.

On August 15, residents and civic leaders of Sucumbios and Orellana began a strike to demand that oil revenues from the region be dedicated to domestic infrastructure, higher wages, and new jobs. The strikes prompted President Palacio to decree a state of emergency on August 17, allowing the suspension of constitutional rights in the two provinces and ordering soldiers into the region. Police and army forces used tear gas, water cannons, and mass arrests to quell demonstrations in Nueva Loja and injured several persons. Soldiers also detained between 40 and 50 protesters who were attempting to seize a Petroecuador station (see sections 2.a. and 6.a.).

In October and November members of the Confederation of Indigenous Nationalities of Ecuador (CONAIE) demonstrated in Quito. Police used tear gas, detained protesters, and prevented buses carrying additional protesters from entering the city (see section 5).

There were no new developments in the February 2004 case in which the military shot four protesters (one of whom later died) who were participating in a demonstration by indigenous people (see sections 1.a. and 5).

Protesters often blocked roads. Security forces generally intervened in demonstrations only when there was violence against bystanders or destruction of property.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—The country had a small Jewish population. There were no reports of societal abuses or discrimination, including anti-Semitic acts, during the year.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Protesters often blocked roads (see section 2.b.). Men must show proof of having completed military service or pay a fine to leave the country. Children must have a notarized letter from a parent to travel unaccompanied.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. The UN High Commissioner for Refugees (UNHCR) also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Approximately 97 percent of refugee applicants were Colombians. According to the UNHCR, the majority of displaced Colombians were poor farmers or businesspersons with minimal education fleeing fighting in Colombia. The law allowed persons granted refugee status to work. The Foreign Ministry changed the format of new IDs issued to asylum seekers so that they no longer explicitly prohibited work.

UNHCR officials noted that growing anti-Colombian sentiment discouraged many Colombian refugees from formally seeking asylum. UNHCR began training police officials to refer such cases to the foreign ministry.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In 2002 voters selected Lucio Gutierrez in the second-round presidential election. Election observers from the OAS, the European Union, the local NGO Citizen Participation, and other international groups termed the elections generally peaceful, free, and fair. In April following large-scale protests in Quito and the public withdrawal of support by the military and the national police leadership, Congress voted to remove President Gutierrez. Vice Presi-

dent Alfredo Palacio assumed the presidency to finish Gutierrez's term. Upon his return to the country in October, Gutierrez was placed in preventive detention for "undermining the security of the state" for statements he made while abroad claiming to be the country's legitimate leader.

There were 15 women in the 100-seat Congress and 3 women in the cabinet. There was 1 Afro-Ecuadorian member in the 100-seat Congress.

The pro-indigenous Pachakutik political movement had 10 members in Congress and was associated closely with the politically active Confederation of Ecuadorian Indian Nationalities (CONAIE). There was one indigenous member of the cabinet.

Government Corruption and Transparency.—There was a widespread public perception of corruption in all areas of the government. Transparency International's annual Corruption Perceptions Index indicated that corruption was a "severe" problem, although slightly improved compared with the previous year.

According to newspaper reports, approximately four thousand Chinese immigrants obtained Ecuadorian visas in 2004 and during the year by bribing government officials. Investigations in June targeted President Gutierrez's brother Gilmar Gutierrez. Although there were no arrests in these cases, Gilmar Gutierrez was removed from Congress over a scandal involving misuse of sporting goods donated by China.

In August President Palacio suspended some of his personal advisors to investigate a forgery and position-selling scandal. The advisors allegedly forged the president's signature on documents granting government positions, which were sold to individuals for personal gain. The case remained under investigation at year's end.

In September authorities accused two members of the Civic Anti-Corruption Commission of leaking information about the commission's investigations. They were subsequently voted off the commission.

There were no developments in the September 2004 case involving the national police chief, several other police officials, and members of the army accused of collaborating with alien smugglers.

In January President Gutierrez issued regulations for the implementation of the Transparency and Access to Information Law, but the government did not provide funding to create a system by which journalists and others could readily access public files. In May President Palacio issued a reform to the law's regulations, limiting the inclusion of defense-related information within the public information covered by the law.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. Government officials cooperated with the groups but often did not act on their views.

There is an office of the ombudsman to focus on human rights problems; however, some observers criticized its lack of independence in practice. The office had adequate resources, but was not considered effective on human rights issues.

The Gutierrez and Palacio governments continued to implement various aspects of the National Human Rights Plan, including human rights training for the Congress, seminars, publication of documents, and a contingency plan for refugees. Several prominent human rights NGOs publicly criticized the government's lack of progress in implementing the plan.

Congress has a seven-member human rights committee. The committee met infrequently, and local human rights organizations did not consider the committee's role particularly significant.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

While the law prohibits discrimination based on race, gender, or social status, women, indigenous people, and Afro-Ecuadorians continued to face significant discrimination.

Women.—Although the law prohibits violence against women, including within marriage, abuses were widespread. The law provides penalties of up to \$28 or 7 days in prison, creates family courts, and gives courts the power to remove an abusive spouse from the home.

The Office of Gender, in the Ministry of Government, reported 21,861 cases of sexual, psychological, or physical mistreatment of women through November, although the numbers were not complete for all provinces. Women may file complaints against a rapist or an abusive spouse or companion only if they produce a witness. Thirty special Police Stations for Women and Families handled issues including domestic violence. The government's National Commission on Women (CONAMU) may accept complaints about abuse of women but must refer cases to the prosecutor's

office for action. CONAMU had projects in all provinces, focusing primarily on equal opportunities, public policy programs toward women, and lines of credit for women's businesses. CONAMU also offered legal and psychological services to victims of violence in most provinces. In some police stations, social workers employed by city governments or NGOs assisted victims.

The law criminalizes rape, including spousal rape, and provides a penalty of up to 25 years in prison. In cases of statutory rape involving "amorous" sex with a minor, the rapist may marry the victim, which cancels the charges unless the marriage subsequently is annulled. The penalty for rape where death occurred is 35 years in prison. By year's end there were 1,421 reported rapes, resulting in 487 persons charged; no information was available on the number of cases prosecuted. Many rapes were not reported due to the victims' reluctance to confront the perpetrators.

Prostitution is legal for persons over the age of 18 so long as the businesses are registered with the government and follow health regulations. Trafficking in persons for prostitution was a problem (see section 5, Trafficking).

Despite the legal prohibition of harassment, women's rights organizations described sexual harassment in the workplace as common.

The law also provides legal support to the government's Women's Bureau in cases of sexual harassment in the workplace.

Despite legal protections of women's rights in politics, the home, and employment, societal discrimination against women was pervasive, particularly with respect to educational and economic opportunities for those in the lower economic strata. Although women enjoy the same legal status as men, the Office of Gender reported that women often did not receive equal rights in practice. According to the government, women received approximately 65 percent of the pay received by men for equal work. The women's movement alleged that culture and tradition inhibited achievement of full equality for women. There were fewer women than men employed in professional work and skilled trades.

The Ecuadorian Women's Permanent National Forum included more than 320 women's organizations and promoted social, economic, and cultural change through various methods, including increasing political participation by women. The National Women's Council provided support for approximately 500 women's organizations, many of which promoted social consciousness and greater participation by women in the political process. The NGO Women's Political Coordinator operated in 22 provinces and promoted similar themes relating to women's rights, with emphases on political participation and human rights. It also focused on young women and Afro-Ecuadorian women.

Children.—The government was committed to children's rights and welfare and has increased funding for child health and education; however, those steps were not fully effective. The United Nations International Children's Emergency Fund (UNICEF) reported in 2004 that approximately 65 percent of the country's 4.8 million children lived in poverty and that malnutrition affected 15 percent of children under age 5.

The law requires that children receive a minimum of 10 years of education; however, due to the lack of schools in many rural communities, the government's failure to provide adequate resources, the economic needs of families, and the comparatively high cost for poor families of books and uniforms, the government rarely enforced this requirement in practice. The Ministry of Education reported that most children achieved a sixth grade education. The citizen movement Social Contract for Education estimated that during the year some 660 thousand children aged 6–17 (approximately 22 percent of school-age children) did not attend school. Education was free through high school, although there were various related fees that prevented many children and adolescents from attending school. The government operated programs that provided families with educational subsidies as an incentive to keep children in school, which assisted approximately 50 thousand children. In rural areas, many children attended school only sporadically after 10 years of age because they needed to contribute to household income, primarily as farm laborers (see section 6.d.).

The government provided free medical care to children under six years of age. Boys and girls received equal access.

There was no societal pattern of abuse against children.

Commercial sexual exploitation of minors was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

More than 20 NGOs promoted child welfare. UNICEF and several private organizations were active in programs to assist street children. The children of the poor often experienced severe hardships, particularly in urban areas.

Trafficking in Persons.—While the law prohibits trafficking in persons, there were reports that persons were trafficked within, to, from, and through the country. On June 23, the government enacted a law that criminalizes trafficking in persons and provides prison terms of 6 to 35 years. The law also provides penalties of 6 to 12 years in prison to companies and individuals who promote sexual tourism and child sex tourism. After the law went into effect, the government showed little progress in prosecuting traffickers. During the year there were at least two trafficking related cases resulting in four arrests and no prosecutions.

The police youth protection agency (DINAPEN) received antitrafficking training and conducted regular raids on nightclubs, bars, and brothels, but normally did not determine whether their underage workers and guests had been sexually exploited. In September a raid in Guayaquil led to the arrest of a 19-year-old man for prostituting a minor. The government appointed a special prosecutor to oversee trafficking cases in Quito. A specially vetted police unit designed to combat alien smuggling also worked with DINAPEN and judicial police to investigate trafficking cases. The government cooperated in international investigations of trafficking.

The country was a source, transit, and destination country for persons trafficked for sexual exploitation and forced labor. The most recent statistics, from a 2002 International Labor Organization report, estimated 5,200 minors were engaged in prostitution. Ecuadorians were trafficked to Western Europe, primarily Italy and Spain, and other Latin American countries. Some Colombians were trafficked into prostitution in the country. Internally, adults and children were trafficked into prostitution. Anecdotal evidence showed that traffickers lured young victims romantically or with promises of dignified employment and then forced them into prostitution. Some poverty-stricken parents also sold their children, wittingly or unwittingly, into prostitution or forced labor in agriculture, including banana plantations, or mines.

Anecdotal evidence indicated that some of those willing to pay up to \$12 thousand to be smuggled out of the country were also victims of trafficking, and women were susceptible to sexual abuse by smugglers. There were numerous allegations of official corruption related to migrant smuggling, but no resulting arrests or convictions. Falsification of civil registry documents to disguise the nationalities of trafficking victims and the ages of juveniles was a problem.

Minors discovered engaging in prostitution were returned to their families or to NGOs without being detained. Crime witnesses are provided protection in several shelters that have standing agreements with the Public Ministry. NGOs worked with local governments to provide limited preventive education and victims' assistance, including counseling, medical attention, self-esteem building, and legal assistance.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and the provision of other state services, and the government effectively enforced the law. The interagency National Council on Disabilities oversees government policies regarding persons with disabilities. Although the law mandates access to buildings for persons with disabilities, the government did not enforce it.

In December the law was amended to require the hiring of persons with disabilities in all public and private enterprises with more than 25 employees.

National/Racial/Ethnic Minorities.—The estimated 1.1 million Afro-Ecuadorian citizens suffered widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity.

The Afro-Ecuadorian Cultural Center estimated that 70 percent of Afro-Ecuadorians lived in poverty. Afro-Ecuadorian organizations noted that, despite the absence of official discrimination, societal discrimination, including stereotyping, continued to affect them. For example, they asserted that the police stopped Afro-Ecuadorians for document checks more frequently than they stopped other citizens and that employers often would not interview persons whose job applications carried Afro-Ecuadorian photos. There were no special government efforts to address these problems.

Indigenous People.—Estimates of those who maintained their indigenous cultural identity and lived in indigenous communities varied between 7 and 20 percent of the population. The vast majority of indigenous citizens resided in rural areas, including the highlands and the Amazonian provinces. Despite their growing political influence and the efforts of grassroots community groups, which were increasingly successful in pressuring the government to assist them, indigenous people continued to suffer discrimination at many levels of society. With few exceptions, indigenous people were at the lowest end of the socioeconomic scale.

Arable land was scarce in the more heavily populated highland areas, where high infant mortality, malnutrition, and epidemic disease were common. Electricity and potable water often were unavailable. Although the rural education system was seriously deficient, many indigenous groups participated with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The law recognizes the rights of indigenous communities to hold property communally, to administer traditional community justice in certain cases, and to be consulted before natural resources are exploited in community territories. Indigenous people also have the same civil and political rights as other citizens. In the Amazon region, indigenous groups lobbied the government, enlisted the help of foreign and domestic NGOs, and mounted protests, including kidnapping oil workers in past years, in attempts to win a share of oil revenues and a voice in natural resource and development decisions.

The government tended to consult indigenous communities on natural resource matters. Oil companies increased their efforts to minimize the environmental and social impact of their oil projects in the Amazon but faced criticism from indigenous groups that environmental damage, particularly deforestation, continued. Indigenous efforts to manage the flow of illegal lumber were undermined by corrupt local officials, a lack of political will, and divisions among and within indigenous communities.

The ombudsman's office established ombudsman representatives in indigenous communities throughout the country. These had responsibility for promoting human and indigenous rights among indigenous communities and providing specific advisory services to these groups.

Police used force to suppress CONAIE demonstrations in Quito in October and November (see section 2.b.).

There were no developments in the February 2004 case in which two unidentified individuals shot at Leonidas Iza, president of CONAIE, or in the killing of Maria Lalbai by members of the military during a February 2004 protest.

Other Societal Abuses and Discrimination.—Although the law prohibits discrimination based on sexual orientation, homosexuals, transsexuals, and transvestites continued to suffer discrimination from both public and private bodies. In April the ombudsman office opened an investigation into the extent of discrimination suffered by sexual minorities.

On July 20, the homosexual rights group Friends for Life Foundation charged Guayaquil State University with requiring incoming medical students to be tested for HIV/AIDS. The group claimed that one medical school applicant who refused to submit to testing initially was denied admittance. The applicant later was admitted following a constitutional writ.

According to a credible NGO, a July police operation in Guayaquil known as "Pink Gentleman" aimed to remove transvestite and transsexual sex workers from certain upscale neighborhoods in Guayaquil. Another NGO claimed that police routinely arrested transvestites visible in these areas. The group stated that in a series of operations in July and September, 41 homosexual, transsexual, or transvestite persons had been arrested, held for 24 hours, and then released upon payment of bail. Police officials confirmed that not only prostitutes, but homosexuals who were not prostitutes, were arrested and detained for 24 hours. In response to similar complaints, the ombudsman's office opened an investigation into the September events.

Section 6. Worker Rights

a. The Right of Association.—While the law provides most workers with the right to form and join trade unions of their choice, legal protections of these rights were inadequate, sometimes failing to deter employers from retaliating against workers for organizing. Members of the police, the military, and most public sector employees were not free to form trade unions. A June report from the International Confederation of Free Trade Unions found that public and private sector employees faced many obstacles to organizing. Approximately 2 to 3 percent of the workforce was organized.

The law sets the number of workers required for an establishment to be unionized at 30, which the ILO's Committee on Freedom of Association considered too stringent a limitation at the plant workers' council level. Some companies took advantage of this law by sub-contracting with several shell companies, each of which has less than 30 workers. Subcontracted workers have no legal right to freedom of association, no right to bargain collectively, and no legal protection against antiunion discrimination.

While employees of state-owned organizations enjoyed rights similar to those in the private sector, the law prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. However, most public em-

ployees maintained membership in some labor sector association which is not allowed to strike or bargain collectively (see section 6.b.).

The Labor Code requires workers in state enterprises to be represented by only one labor union. The law does not require reinstatement of workers fired for antiunion activity but does require compensation and fines. The law does not protect workers against antiunion discrimination in hiring. There were several cases during the year of workers in the flower and banana industries forming associations or unions and subsequently being fired or prohibited from entering the workplace.

b. The Right to Organize and Bargain Collectively.—The law requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests. Collective bargaining agreements covered 25 percent of the organized workforce. Most of the economically active population was employed in the agricultural sector or the urban informal sector; the vast majority of these workers were not organized. The law allows businesses to hire workers on individual contracts.

Newly hired employees, particularly in the agricultural sector, worked on temporary contracts. In practice it was difficult to organize temporary employees on short-term contracts. Since the Labor Code does not recognize temporary workers, they do not enjoy the same level of protection offered to other workers.

There are few restrictions on the right of private-sector workers to strike, although a 10-day period is required before a strike can be declared. The law allows solidarity strikes or boycotts of three days if the Ministry of Labor approves them. In some industries, during a legal strike, workers may take possession of the factory or workplace (thus ending production at the site) and receive police protection during the takeover. However, in other industries, such as agriculture, the law requires a 20-day waiting period from the day the strike is called. During this time, workers and employers must agree on how many workers are needed to ensure a minimum level of service, and at least 20 percent of the workforce must continue to work in order to provide essential services. The law provides that “the employer may contract substitute personnel” only when striking workers refuse to send the number of workers to provide the minimum necessary services, although in practice this law was not enforced. The law protects strikers and their leaders from retaliation.

The law does not provide the majority of public workers (those who fall under the civil service law) with the right to strike and includes a provision that striking public sector workers are liable to between two and five years in prison; however, there were frequent “illegal” strikes, including by public school teachers and health workers. Public workers are prohibited from bargaining collectively.

In July 50 employees of the public petroleum company fired by the government in 2003 were reinstated.

The law permits the hiring of temporary workers for the maquila (in-bond processing for export) industries. The maquila system allows a company and its property to become an export-processing zone wherever it is located. There were no unions or labor associations in the maquilas. Most workers were hired on temporary contracts by the employer to complete a specific order.

c. Prohibition of Forced or Compulsory Labor.—While the law prohibits forced or compulsory labor, including by children, there were reports that children were trafficked for labor (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the law protects children from exploitation in the workplace and defines acceptable working conditions, the government did not effectively implement the law, and child labor remained a problem.

The law sets the minimum working age for minors at 15 for all types of labor and the maximum hours a minor may work at 6 hours per day and 5 days per week. The law prohibits minors from working in hazardous conditions, including in mines, with toxic or dangerous substances, or with dangerous machinery. Employers are required to pay minors at least 80 percent of the wages received by adults for the same type of employment. Penalties for violations of the child labor laws include fines of \$50 to \$300 for parents or guardians and \$200 to \$1,000 for employers. In cases of repeated infractions, the employer’s business can be closed. The inter-agency National Committee for the Eradication of Child Labor (CONEPTI) developed a National Plan for the Eradication of Child Labor, which the minister of labor approved on September 21. The government began implementing awareness campaigns on child labor and hired 23 child labor inspectors.

The Ministry of Labor and the Minors’ Tribunals failed to enforce child labor laws, and child labor was prevalent. A 2004 study by the Ministry of Labor, the Institute for the Child and Family, and the National Committee for the Progressive Eradication of Child Labor found that 465,770 children between ages 5 and 14 (approx-

mately 15 percent of children in this age group) were engaged in labor not permitted by law, primarily in rural areas.

More than 40 percent of all children lived in rural areas, and many left school at an early age to do unpaid agricultural work for their families.

The Ministry of Labor has a three-officer Division for Child Labor, which meets monthly with other divisions in the Ministry of Labor and the National Committee for the Progressive Eradication of Child Labor, which includes government agencies, businesses, and labor organizations. The Division of Child Labor planned and implemented the national system of child labor inspections. It also played a key role in forming the Banana Social Forum in 2004 and the Flower Social Forum during the year. The ILO worked with the forums to remove 45 children from work and prevent 1,250 children from entering work in those sectors.

The Ministry of Labor's 23 child labor inspectors conducted approximately 1,500 child labor inspections from January to July, which found approximately 1,050 adolescents working and approximately 230 children under age 15 working. The ministry worked to regulate the employment of the adolescents found. On some occasions, large banana plantations reportedly fired child workers when they received notice that labor inspectors were arriving. Reports also indicated that inspectors mainly targeted large banana plantations.

While the Ministry of Labor's Social Service Directorate monitored child labor in businesses such as factories, enforcement in most sectors of the economy remained limited. In urban areas, many children under age 15 worked in family-owned businesses in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Other children were employed in commerce, messenger services, domestic services, and begging. Children as young as five or six often sold newspapers or candy on the street to support themselves or to augment family income.

The government supported the Program for the Schooling and Protection of Child Workers. The Child Worker Program implemented a workshop program in six cities to work with families and schools on the problem of child labor. The program also administered a scholarship program for child laborers.

e. Acceptable Conditions of Work.—The Ministry of Labor periodically sets the minimum wage in consultation with the Commission on Salaries, but Congress also may adjust the minimum wage. As of December the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$166, or \$0.95 per hour, in the case of contract workers. The statutory minimum wage did not provide a decent standard of living for a worker and family. Most organized workers in state industries and formal sector private enterprises earned substantially more than the minimum wage and also received other significant benefits through collective bargaining agreements. However, the majority of workers worked in the large informal and rural sector without obtaining the minimum wage or legally mandated benefits.

The law provides for a 40-hour workweek and 2 consecutive days of rest per week. If required to work beyond the standard workweek, workers must be paid overtime. A higher overtime rate is set for working at night. The maximum number of hours of overtime was 12 hours per week, which generally was respected, except in subcontracting companies where workers sometimes were required to work up to 28 hours of overtime per week. The Ministry of Labor did not deploy sufficient resources to enforce labor laws.

The law also provides general protection for workers' health and safety on the job. However, a worker may not leave the workplace for health reasons, even if there is a hazardous situation. A worker is allowed to request that an inspector from the Ministry of Labor confirm a workplace hazard; that inspector then may close down the workplace. Response time for inspectors ranged from a few days in major cities to much longer in the countryside.

The Social Security Institute is responsible for enforcing health and safety standards and regulations. In the formal sector, occupational health and safety was not a significant problem. However, there were no specific regulations governing health and safety standards in the agricultural sector, and in practice there was no enforcement of safety rules in the small mines that make up the vast majority of enterprises in the mining sector.

EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an estimated population of 6.7 million. In March 2004 voters elected Elias Antonio "Tony" Saca of the Nationalist Republican Alliance (ARENA) as president for a 5-year term in gen-

erally free and fair elections. Civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the rights of its citizens, protection of human rights was undermined by widespread impunity, corruption among the security forces and other governmental authorities, and gang violence. The following human rights problems were reported:

- excessive use of force and mistreatment of detainees by members of the security forces
- arbitrary arrest and detention
- harsh prison conditions, including inadequate supervision, widespread violence, and overcrowding
- lengthy pretrial detention
- inefficiency and corruption in the judicial system
- violence and discrimination against women
- abuses against children, child labor, and forced child prostitution
- trafficking in persons
- discrimination against persons with disabilities
- discrimination against indigenous persons
- discrimination against persons based on sexual orientation
- lack of enforcement of trade union rights

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—While the government or its agents did not commit any politically motivated killings, the Office of the Inspector General of the Civilian National Police (PNC/IG) reported that security forces unlawfully killed six persons during the year.

During the year the Office of the Ombudsman for Human Rights (PDDH) received complaints of mistreatment by police officials, including unlawful killings, attempted unlawful killings, assaults, and other offenses causing bodily harm. The PDDH determined that the PNC was at fault in 35 of these cases.

The PNC/IG reported that it had received 11 cases of police involvement in killings during the year, 1 of which related to the killing of a gang member.

The PNC/IG reported that on March 8, police officer Nelson Alexander Minero Vasquez shot and killed fellow officer Antonio Cruz Vasquez and injured fellow officer Victor Manuel Cabrera Valladares. At year's end Minero Vasquez had fled the authorities, and the case remained under investigation.

During the year President Anthonio Saca stated on several occasions that it was unlikely the government would reopen the case of the 1980 killing of Archbishop Oscar Romero, despite calls in 2004 by the Catholic Church to reopen the investigation.

In March the Inter-American Human Rights Commission (CIDH) announced that it would reopen a case involving the killings of hundreds of villagers at El Mozote, Morazan Department by government forces in 1981.

The media reported discoveries of a number of decapitated bodies of persons killed during the year, possibly due to gang violence. At year's end the PNC was investigating these killings.

In July the principal witness in the Tacoma case, involving the 2003 escape from the Isidro Mendez judicial center jail of 14 members of an organized crime group that operated in Guatemala, Belize, and El Salvador, was killed, reportedly by a gang member. The case remained under investigation at year's end.

At year's end six persons remained under arrest awaiting trial for the November 2004 killing of foreign labor activist Jose Gilberto Soto.

b. Disappearance.—There were no reports of politically motivated disappearances. Most disappearances were criminal kidnappings for ransom, and there were no reports of kidnappings by governmental actors. According to PNC statistics, 10 persons were kidnapped during the year, and 8 of these cases were resolved.

During the year the Association for the Search for Children Who Disappeared as a Result of the Armed Conflict (Pro-Busqueda) investigated 99 cases and organized 11 family reunification meetings. Pro-Busqueda has investigated 310 cases since its inception in 1994. For the first time, 794 DNA tests were conducted to create a genetic data bank to help reunite families with missing children.

On February 23, the CIDH reopened the 1982 case of the disappearance of Gregoria Herminia, Serapio Cristian, and Julia Ines Contreras, who were captured

by members of the military from the Fifth Infantry Brigade of the armed forces during an operation carried out at La Conacastada, San Vicente Department. By year's end the CIDH had not published any findings in this case.

On May 1, the Inter-American Court of Human Rights found that the government had violated the rights of sisters Ernestina and Erlinda Serrano Cruz and their families for its role in the sisters' disappearance in 1981. The court further resolved that within six months, the government should take proactive measures including publicly acknowledging the facts of the case, investigating and prosecuting those responsible, creating a committee to search for children who disappeared during the armed conflict, and paying compensation to the family of the Serrano Cruz sisters.

In September the government announced that it had fulfilled the order of the Inter-American Court of Human Rights by: Publishing the ruling in the *Gazeta Oficial*, in *La Prensa Grafica*, and *El Diario de Hoy*; designating a day of commemoration for the children who disappeared during the armed conflict; and stating its intention to pay damages, provide medical treatment for the victims and their families, and create a web page to facilitate reunions of children with their families. At year's end the government had not yet paid the compensation. Although the government averred that the national hospitals have already provided medical treatment to the victims, *Pro-Busqueda* asserted that the national hospitals lacked the expertise to address adequately the victims' special needs.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, but during the year the PDDH received 54 complaints that PNC officers used excessive force or otherwise mistreated detainees. The PDDH found PNC officers responsible in 35 cases. During the year the IG received 44 petitions to investigate cases of alleged personal integrity violations.

There were no developments regarding the investigation into the killing of Melvin Guadalupe during July 2004 riots in San Salvador, during which the police reportedly used excessive force.

During the year the IG received 187 complaints of police misconduct. There was no information available at year's end on whether the PDDH referred cases to the attorney general's office for prosecution.

On July 2, authorities arrested five PNC agents in Acajutla, Sonsonate jurisdiction on rape charges, based on a PNC investigation finding that the agents forced alien minors to have sex with them to avoid a deportation procedure. At year's end the PNG/IG was conducting a disciplinary review, but criminal charges against the defendants were dropped due to lack of evidence.

Prison and Detention Center Conditions.—Prison conditions remained dangerous and harsh. Overcrowding constituted a serious threat to prisoners' health and lives. The prison population increased for the fifth consecutive year. There were 12,176 prisoners held in 21 correctional facilities and 2 secure hospital wards with a combined designed capacity for 7,372 persons.

At year's end authorities had failed to regain control of all cellblocks at the La Esperanza Central Penitentiary following an August take-over of the facility by prisoners. According to correctional facility authorities, there were 22 riots in 11 prisons throughout the country in Santa Ana, Apanteos, Quezaltepeque, Chalatenango, Ilopango, Zacatecoluca, Cojutepeque, Oriental, San Miguel, Ciudad Barrios, and San Francisco Gotera.

Prison authorities reported that there were eight deaths due to violence and nine from natural causes in the prison system during the year. Prisoners obtained weapons that had been smuggled into prisons, at times with the knowledge of guards. On July 1, prison authorities seized 334 edged weapons during routine security inspections at La Esperanza Penitentiary.

Gang activities in prisons remained a serious problem. Gangs continued to exercise influence within the prisons and the judicial system, and prisoners reportedly continued to run criminal activities from their cells. In September gangs within the maximum-security prison at Zacatecoluca ordered prisoners of different penitentiaries to go on a hunger strike and to not attend judicial hearings, with authorities reporting that 1,987 detainees refused to attend judicial hearings during the year. Judges ordered prison authorities to use law enforcement agencies to re-establish control.

In August judicial authorities tried 13 prisoners who had led an August 2004 riot between gang members and non-gang members at the Mariona prison. All were found guilty of homicide and awaited sentencing at year's end.

In July the judge of the Mejicanos Court of Instruction dismissed, due to lack of evidence, charges of negligence in preventing and reporting drug trafficking at Mariona prison. The charges had been brought in December 2004 against former prison warden Jose Antonio Guzman Blanco.

By year's end authorities had recaptured 7 of the 14 minor prisoners who escaped on September 16 from Ilobasco Penitentiary.

Gang violence in juvenile holding facilities was a serious problem.

Because of a lack of holding cells, pretrial detainees often were sent to regular prisons where they could be placed together with violent criminals.

The government permitted prison monitoring visits by independent human rights observers, nongovernmental organizations (NGOs), and the media, and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—Although the law prohibits arbitrary arrest and detention, there were complaints that at times the PNC arbitrarily arrested and detained persons. By year's end the PNC/IG received 9 petitions alleging arbitrary arrest and detention, and the PDDH received 36 complaints alleging police violations of personal liberty; the PNC was found responsible in 31 cases.

Role of the Police and Security Apparatus.—The PNC maintained public security and the Ministry of Defense was responsible for national security. The military provided support for a few PNC patrols in rural areas and also gave support to the law enforcement agencies for specific activities, including antinarcotics efforts and reform school training for juvenile convicts. The Ministry of Governance headed the Anti-Gang Task Force with 333 military personnel deployed in high crime areas.

The PNC's effectiveness was undermined by inadequate training, insufficient government funding, and the lack of a uniform code of evidence. Police corruption and impunity were widespread problems, although the police retained a high approval rating among the public and were perceived as comparatively non-corrupt. Persons could report complaints about PNC abuses either to the PDDH or the IG, which then investigate the case or refer the matter to the attorney general's office for further review.

On September 14, the Second Judge of San Miguel found that there was insufficient evidence to bring criminal charges of drug possession and membership in illicit associations against police officers Juan Adelson Vasquez Garcia and Carlos Alexander Ramos. Both defendants were arrested in a July antigang operation on suspicion of membership in the Mara Salvatrucha gang.

The PNC/IG reported that during the year 5,369 police officers received human rights awareness training. The Salvadoran Institute for the Development of Women (ISDEMU), a government agency, gave training to the police regarding prevention of rape, child abuse, and related offenses. The NGO Instituto de Estudios de la Mujer "Norma Virginia Guirola de Herrera" also trained police regarding the treatment of women. On November 30, the Legislative Assembly passed legislation to establish an International Law Enforcement Academy (ILEA) for training police, prosecutors, and other public security and judicial officials.

Arrest and Detention.—The law requires a written warrant for arrest, except in cases where an individual is arrested in the commission of a crime. In practice persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and were brought before appropriate judicial officials. The law provides that a detainee has the right to a prompt judicial determination of the legality of the detention, and authorities generally respected this right in practice. In general detainees were promptly informed of charges against them.

The law permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. Because it may take several years for a case to come to trial, some prisoners were incarcerated longer than the maximum legal sentence for their crimes. In such circumstances, a detainee was able to request a review by the Supreme Court of the continued detention.

The courts generally enforced a ruling that interrogation without the presence of counsel is considered coercion, and that any evidence obtained in such a manner is inadmissible. As a result, PNC authorities generally delayed questioning until a public defender or an attorney arrived. Family members were allowed prompt access to visit detainees. Detainees generally had prompt access to counsel of their choosing or to an attorney provided by the state.

There were no reports of political detainees.

The law permits the PNC to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees often were sent to regular prisons, where they could be placed together with violent criminals (see section 1.c.). The law permits a judge to take up to six months to investigate serious crimes before requiring either a trial or dismissal of the case. In exceptionally complicated cases, the prosecutor or either party may ask the appeals court to extend the deadline for three to six months, depending

on the seriousness of the crime. However, many cases were not completed within the legally prescribed time frame. At year's end the Penitentiary Directorate reported that 3,538 inmates were in pretrial detention.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judiciary suffered from inefficiency and corruption. Corruption in the judicial system contributed to impunity from the country's civil and criminal laws. Impunity remained a significant problem, undermining respect for the judiciary and the rule of law. A September CID-Gallup poll revealed citizens' belief that judicial system inefficiencies allowed criminals to escape from justice. Many judges allowed unjustified trial delays, but few were ever sanctioned for this practice. NGOs such as the Foundation for Studies in Legal Application (FESPAD), the Salvadoran Foundation for Economic and Social Development, and the Human Rights Institute of the University of Central America (IDHUCA) claimed that the Supreme Court did not respond adequately to public criticism and did not make a comprehensive effort to remove unqualified and corrupt judges.

The PNC, prosecutors, public defenders, and the courts continued to have problems with criminal investigations. Inadequate government funding of the PNC and intimidation of victims and witnesses made it difficult to identify, arrest, and prosecute criminals, thus diminishing public confidence in the justice system.

During the year the attorney general's office received 117 complaints of prosecutorial irregularities, including bribery, negligence, and failure to attend legal proceedings.

In August the Criminal Chamber of the Supreme Court affirmed an October 2004 court decision dismissing charges of child pornography against Nelson Garcia, former president of the Salvadoran Bar Association and former candidate for the Supreme Court.

There were no new developments regarding the criminal court's October 2004 releasing from police custody and dismissing of charges against criminal court legal clerk Graciela Roque, in connection with the 2004 flight from justice of Raul Garcia Prieto.

There were no developments regarding an appellate court's August 2004 decision to uphold a lower court ruling to transfer defendant Fernando Palacios Luna, convicted of kidnapping and organized crime, from a maximum-security to a medium-security prison. At year's end Palacios Luna, who was given a sentence of 40 years, remained in maximum security at the Zacatecaluca prison.

The court system has four levels: justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court oversees the budget and administration of the court system, and selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judicial Council (CNJ), an independent body that nominates, trains, and evaluates justices. There are separate court systems for family matters and juvenile offenders. The law requires that minors from 12 to 17 years of age be tried in juvenile courts.

Although juries were used for specific charges, including environmental pollution, and certain misdemeanors, judges decided most cases. By law juries hear only cases that the law does not assign to sentencing courts. After the jury's determination of innocence or guilt, a tribunal decides the sentence.

Defendants have the right to be present in court and to question witnesses and present witnesses and evidence. Although the law further provides for the presumption of innocence, protection from self-incrimination, the right to legal counsel, freedom from coercion, and government-provided legal counsel for the indigent, these legal rights and protections were not always respected in practice. Although a jury's verdict is final, a judge's verdict can be appealed. Trials are public.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press and the government generally respected these rights in practice. The independent media were active and expressed a variety of views without restriction. International media were allowed to operate freely.

There were no further developments and non were expected in the October 2004 convictions for public disorder and the sentencing of defendants to 2-year suspended sentences in relation to attacks on journalists and the burning of media vehicles in April 2004 during a demonstration by social security (ISSS) workers (see section 6.a.).

International NGOs generally commented positively on the status of press freedom in the country. According to some media groups, however, a criminal code provision allowing judges to close court proceedings if public exposure could prejudice a case abridged press freedom. According to some practitioners and observers, at times newspaper editors and radio directors discouraged journalists from reporting on topics or presenting views that the owners or publishers might not view favorably.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Freedom of Association.—Although the law provides for freedom of association, there were concerns regarding registration delays of certain types of civil society groups. NGOs asserted that the Governance Ministry delayed approval of legal status for NGOs with particular human rights or political agendas. There were no developments regarding the Governance Ministry's denial of legal status to *En Nombre de la Rosa*, a homosexual and transvestite advocacy association (see section 5).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community totaled approximately 150 persons.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced internal or external exile, and the government observed this prohibition in practice.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government established a system for providing protection to refugees. In August the president enacted new regulations relating to the status of refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government received two refugee petition requests during the year. One of these petitions was rejected, and the other remained under review at year's end. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 UN Convention or 1967 protocol. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

At year's end there was no public response by the government to the UNHCR liaison's August 2004 public complaint about the government's attitude toward Nicaraguans who had moved to El Salvador during the 1980s, but who had never completed application procedures for refugee status.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

ARENA party candidate Elias Antonio Saca won the March 2004 presidential elections, which the Organization of American States and other international observers reported were free, fair, and with few irregularities.

The country's vice president was a woman, and 9 of 84 legislators were women. There were 2 women on the 15-member Supreme Court.

No persons identified as members of an ethnic or religious minority held leadership positions in the government or the Legislative Assembly.

Government Corruption and Transparency.—There were reports of substantial government corruption during the year within the judicial system (see section 1.e.), as well as in the executive and legislative branches. In September FUSADES asserted that the comptroller's office lacked the independence to perform properly its duties to investigate malfeasance of public funds.

On September 20, *La Prensa Grafica* reported that the National Public Security Academy (ANSP), in charge of recruiting PNC candidates, had accepted 23 students

who failed psychological and subject tests. The Ministry of Governance ordered an investigation, found that the ANSP Academic Council had exceeded its discretionary authority, and replaced the ANSP director.

Even though the law provides for public access to government information, the public had difficulty accessing government budget figures and information involving investigations by the comptroller's office.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to these groups, officials at times were reluctant to discuss worker rights issues with NGOs and refused to discuss the topic with the PDDH. Domestic and international NGOs were required to register with the government, and some reported difficulties (see section 2.b.).

The principal human rights investigative and monitoring body is the PDDH, whose head is elected by the Legislative Assembly for a 3-year term. In September the comptroller accused the PDDH of misuse of \$25 thousand in public funds. The PDDH maintained a constructive dialog with the president's office, but alleged that the PDDH Director Beatrice Alamanni de Carrillo received threats from unknown sources and lacked sufficient resources. The PDDH regularly issued reports and media releases.

During the year the PDDH accepted complaints of human rights violations (see sections 1.a. and 1.c.) and issued 1,002 findings involving complaints filed during the year and previous years. The rights most frequently alleged to have been violated related to personal integrity, due process, and labor laws. The PDDH found that 65 complaints were merited; it dismissed charges in 187 cases and issued or reconfirmed recommendations in 48 and 130 complaints, respectively. Thirty-two resolutions were *sui generis*.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination based on race, gender, disability, language or social status, in practice the government did not effectively enforce these prohibitions. There was discrimination against women, persons with disabilities, and indigenous people regarding salaries and hiring and instances of violence committed by prison guards and private actors against persons based on sexual orientation.

Women.—Violence against women, including domestic violence, was a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from six months to one year in prison. In addition convicted offenders are prohibited from using alcohol or drugs and from carrying guns. The length of the prohibition depends on the circumstances of the case and is at the judge's discretion. The law also permits the imposition of restraining orders against offenders. Domestic violence was considered socially acceptable by a large portion of the population. Few victims filed complaints against abusers, and the police reportedly at times were reluctant to pursue charges in such cases. The Salvadoran Institute for the Development of Women (ISDEMU) conducted public awareness campaigns against domestic violence and sexual abuse in coordination with the judicial and executive branches and with civil society groups.

During the year the PNC received 5,389 domestic violence complaints. By year's end ISDEMU had received 4,033 complaints of domestic violence, compared with 4,329 complaints in 2004. Incidents of domestic violence and rape continued to be underreported for a number of reasons, including societal and cultural pressures against victims, fears of reprisal, ineffective and unsupportive responses by the authorities toward victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted.

Government institutions, such as the PDDH, the attorney general's office, the Supreme Court, the public defender's office, and the PNC coordinated efforts with NGOs and other organizations to combat violence against women through education, increased enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family, through ISDEMU, defined policies, programs, and projects on domestic violence and maintained a hot line and a shelter for victims of domestic abuse. Judges are permitted to give NGOs legal authority to assist victims of domestic violence.

Rape and other sexual crimes against women were widespread and serious problems. During the year the PNC received reports of 455 rapes against children and

women and 225 cases of sexual assault. There was no information available on the number of rapes and other sexual assaults that were gang related.

The law permits the attorney general to prosecute rape cases with or without a complaint from the victim, and does not permit the victim's pardon to nullify the criminal charge. In general the penalty for rape is 6 to 10 years in prison. The law, however, provides for a maximum sentence of 20 years for rape of special classes of victims, including children and persons with disabilities.

ISDEMU conducted sensitivity and technical courses for the education, government, public health, and social assistance ministries; the judicial branch; the PNC; the Attorney General's Office; and the ISSS. ISDEMU also provided psychological assistance to 397 victims of rape and other forms of sexual abuse.

Although the law does not specifically address spousal rape, it may be considered a crime if the actions meet the definition of rape in the Criminal Code. By year's end there were no new developments in the ongoing police investigation into the 2003 killings by decapitation of two young women.

Although prostitution is legal, the law prohibits inducing, facilitating, promoting, or giving incentives to a person to work as a prostitute. Prostitution remained common, and there were credible reports that some women and girls were forced into prostitution (see section 6.c.). There were no reports that police or other public security officials condoned or engaged in abuse of persons engaged in prostitution.

There were no reports of sex tourism. Trafficking in women and girls for purposes of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibits sexual harassment and stipulates penalties of 3 to 5 years for those convicted of harassment, or 4 to 8 years in cases where the victim was a minor under the age of 15. Fines are added to the prison term in cases where the perpetrator is in a position of authority or trust over the victim. The government did not enforce sexual harassment laws effectively. Even though pregnancy testing as a condition for employment is illegal, some employers, including maquila factories in the Export Processing Zones (EPZs), required female job applicants to present pregnancy test results and also fired workers found to be pregnant.

There were no new developments and none were expected in the October 2004 mediation agreement between PNC Sub-commissioner Wilfredo Avelenda and three subordinates who accused him of sexual harassment. The agreement stipulated that in the future Avelenda would not intimidate, threaten or engage in any reprisals against the complaining subordinates.

The law grants women and men the same legal rights under family and property law, but at times women did not receive equal treatment in practice. The law establishes sentences of one to three years in prison for public officials who deny a person's civil rights based on gender. Although the law provides for a prison sentence of six months to two years for employers who discriminate against women in labor relations, it was difficult for employees to report such violations because they feared reprisals.

Women suffered from cultural and societal discrimination and had reduced economic opportunities. Men often received priority in job placement and promotions, and women were not accorded equal respect or stature in traditional male-dominated sectors, such as agriculture and business. Training for women generally was confined to low-wage occupational areas where women already held most positions, in fields such as teaching, nursing, home industries, and small businesses.

A 2003 UN Development Program study, the most recent available, reported that women earned on average \$3,350 per year, compared with \$7,381 for men. In the maquila sector, where women formed approximately 85 percent of the labor force, men held the majority of positions in management and in departments where employees received higher wages.

ISDEMU provided technical and financial assistance to support entrepreneurial activities and worked in 16 municipalities to combat economic discrimination against women.

Children.—The government was committed to improving children's rights and welfare, but allocated insufficient resources and suffered from poor interagency coordination in its child welfare activities. The Salvadoran Institute for Children and Adolescents (ISNA), an autonomous entity, has primary responsibility for child welfare issues.

The government focused on improving children's education, with the goal of creating a more competitive work force through programs supporting bilingual studies and computer and mathematics skills.

The Ministry of Education and the Ministry of Labor, with foreign government assistance, coordinated the APRENDO program that raised awareness among students, teachers, and parents regarding the importance of remaining in school and avoiding harmful forms of child labor. The government also cooperated in a program

sponsored by the UN Children's Fund (UNICEF) which provided information to 8,517 children regarding sexual and commercial exploitation.

Education is free, universal, and compulsory through the ninth grade and nominally free through high school. Children on average attended school for approximately 5.5 years. The law prohibits persons from impeding children's access to school due to inability to pay fees or buy uniforms. Some public schools, however, continued to charge student fees, preventing poor children from attending school. Rural areas fell short of providing a ninth grade education to all potential students, due to a lack of resources and because rural parents often withdrew their children from school by the sixth grade to work.

Boys and girls enjoyed equal access to medical care.

Child abuse was a serious and widespread problem. As of November 30, ISNA reported 589 cases of negligence toward children, 407 cases of child abuse and mistreatment, 221 cases of child sexual abuse, and 70 cases of child commercial sexual exploitation. A majority of the victims were female. Through the end of November, ISNA reported that its shelters housed 344 girls and 510 boys.

There were also reports of PNC abuse of street children (see section 1.c.). The government provided street children with food, shelter, and healthcare. There were 15 street children housed in ISNA shelters, but ISNA lacked adequate resources to provide assistance to all street children.

By year's end ISNA reported 221 sexual crimes against children including child prostitution, rape, statutory rape, and molestation. International Labor Organization (ILO) data compiled during the year indicated that there was societal tolerance toward having sexual relations with minors. During the year the Children's National Hospital reported 30 cases of violence against children.

Child prostitution was a problem, and included the commercial sexual exploitation of minors for upper class clients. Children, especially those living on the streets, were trafficked to other countries, including for the purpose of sexual exploitation (see section 5, Trafficking).

A UNICEF sponsored a program to prevent sexual and commercial exploitation during operations during the year and provided information to 8,517 children.

Child labor remained a widespread and serious problem (see section 6.d.).

Trafficking in Persons.—Although the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country. Trafficking in persons and forced prostitution are felonies, penalized by four to eight years' imprisonment. If the trafficking victim is under 18, suffers mental or physical disease, suffers violations to freedom of transit in a foreign country, dies as a consequence of negligence or imprudence, or if the perpetrator is a law enforcement agent or public officer, the maximum sentence increases by one-third. There are no civil penalties for trafficking.

Despite the arrest of 15 persons accused of trafficking, there were no convictions for trafficking offenses. The following government agencies were responsible directly for combating trafficking in persons: the Alien Smuggling and Trafficking in Persons Unit of the attorney general's office, the PNC, ISNA, and the Directorate General of Immigration. The government did not provide adequate funding for these units.

The government coordinated three separate cases of trafficking in cooperation with INTERPOL and Guatemalan, Belizean, and Nicaraguan authorities. In each of these cases, the government located the victim and repatriated that person to the home country in coordination with ISNA and local authorities. There were no extraditions based on trafficking charges.

Although there were no firm estimates on the extent of trafficking, the country was a point of origin and destination for international trafficking in women and children, particularly the harboring of child prostitutes. There was evidence that the country was a transit point for girls trafficked to Mexico, the United States, neighboring Central American countries, and elsewhere. Some children also were trafficked internally to cities, particularly to Acajutla and San Miguel, and to bars and border regions. Sex trafficking of minors occurred within the country's borders, as did sex trafficking in which commercial sex was induced by force, fraud, or coercion. Most international trafficking victims came from Nicaragua, Honduras, and South America. Particular groups at special risk for trafficking were girls and young women from 12 to 19 years of age, persons from rural and poor areas, single mothers in poor areas, adolescents without formal schooling, adolescent mothers, unemployed young men, and foreign girls. In October the ILO stated that children were most vulnerable to become victims of trafficking.

In August the PNC arrested on trafficking charges Juan Santos Martinez, accused of purchasing a 13-year-old girl in Belize. At year's end Martinez remained under arrest, and the girl had been returned to Belize.

There were no developments in the attorney general's attempt to reopen the case of Sara Elizabeth Galdamez de Orellana, arrested in July 2004 for procuring for prostitution 3 girls aged 14 to 16 in Metapan, but acquitted by a justice of the peace for lack of evidence.

According to immigration authorities, the principal traffickers in the country were employment agencies, which offered inducements for work in beauty salons, as models, in gyms, as maids, or in factories. The PNC reported that the most common methods of obtaining victims were kidnapping, lucrative job offers, and inducement into prostitution by family, friends, and smugglers.

The government detained illegal migrants, including those who might have been trafficking victims. When illegal immigrants who were victims of trafficking were older than 18 years and did not request assistance or express fear for their lives, they were deported as a matter of policy. Persons under 18 years of age were repatriated through ISNA cooperation with the counterpart organization in the victim's country of origin. The PNC encouraged national trafficking victims to press charges against traffickers. A foreign trafficking victim is permitted to file a criminal case, but in practice, illegal migrants, including foreign victims of trafficking, were deported before they had the opportunity to do so. Victims could apply for temporary residence or refugee status if they were likely to face persecution in the country of origin.

The government provided access to legal, medical, and psychological services upon request. Victims of trafficking were not treated as criminals unless they were undocumented workers of legal age. Although the government provided assistance to its repatriated citizens who were victims of trafficking, victims faced societal discrimination due to having engaged in prostitution or other commercial sexual activities.

The Salvadoran Network Against Trafficking, comprising the ILO, Catholic Relief Services, Las Dignas, CONAMUS, Flor de Piedra, FESPAD, and CARITAS, provided legal counseling and human rights awareness to victims of trafficking. CEMUJER, IDHUCA, CONAMUS, the International Office on Migration (IOM), and the ILO had programs to prevent trafficking. The government provided trafficking victims assistance funding only to the IOM.

Persons with Disabilities.—Although the law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, the government did not effectively enforce these prohibitions, nor did it effectively enforce legal requirements for access to buildings for persons with disabilities. There was discrimination against persons with disabilities in employment and education.

The government made inadequate efforts during the year to combat discrimination and increase opportunities for persons with non-war-related mental and physical disabilities. The law requires that 1 of every 25 employees hired by private businesses be a person with disabilities. Even though there was no reliable data on the number of persons with disabilities who were employed, the unemployment rate among this group remained significantly higher than that of the general population.

In October a justice of the Constitutional Chamber ruled that a criminal court violated a deaf man's right of defense by failing to provide him a sign-language interpreter during March 2004 judicial proceedings. The accused man was incarcerated on child abuse charges, but a sentencing court released him on bail.

Access by persons with disabilities to basic education was limited due to lack of facilities and appropriate transportation. Few of the government's community-based health promoters were trained to treat persons with disabilities, and they rarely provided such services.

The government provided insufficient funding to the several organizations dedicated to protecting and promoting the rights of persons with disabilities.

The National Council for Disabled Persons was the government agency responsible for protecting the rights of persons with disabilities. The council conducted a media campaign to improve treatment of persons with disabilities and workshops with employees of the health, education, and labor sectors. On December 16, the Rehabilitation Foundation (Teleton), in cooperation with the Salvadoran Institute for the Rehabilitation of the Disabled, opened a treatment center to offer services to persons with disabilities, including a touch garden for the blind, art workshops, a special educational assistance program, and an education program for parents of children with disabilities.

Indigenous People.—While the constitution states that native languages are part of the national heritage and should be preserved and respected, the law does not recognize indigenous communities and accords no special rights to indigenous people. Indigenous people comprise approximately 1 percent of the national population

and form three principal groups: Nahua-Pipiles in western and central areas of the country, Lencas in the eastern region, and Cacaoperas also in the eastern region. Due to the persistence of discriminatory cultural attitudes against indigenous people, few individuals publicly identified themselves as indigenous. There were a few small indigenous communities whose members continued to wear traditional dress and maintain traditional customs to a recognizable degree, without repression or interference by the government and nonindigenous groups. Government estimates of 2004 indicated that approximately 99 percent of indigenous people lived below the poverty level.

Access to land was a problem for indigenous people. Because few possessed title to land, bank loans and other forms of credit were extremely limited.

During the year the government's National Committee for Art and Culture, in cooperation with the Inter-American Development Bank, the Pan-American Health Organization, and the Don Bosco University, began an after-school Nahuatl language program in nine schools in the western part of the country. There were no government programs dedicated to combat discrimination against indigenous persons.

In October the NGO National Association of Indigenous Salvadorans worked with the government to assist indigenous victims of Hurricane Stan.

Other Societal Abuses and Discrimination.—During the year ISDEMU received several hundred complaints of domestic violence against the elderly.

The law prohibits discrimination on the basis of HIV status and sexual orientation, although in practice discrimination was widespread. There were reports of violence and discrimination by public and private actors against persons with HIV/AIDS, and against homosexual, lesbian, and transgender persons, including denial of legal registration for a homosexual rights advocacy group (see section 2.b.).

A July Pan-American Health Organization report revealed that HIV/AIDS patients suffered from a lack of information and supplies. Lack of public information remained a problem in confronting discrimination against persons with HIV/AIDS or in assisting persons suffering from HIV/AIDS. According to a National Health Survey presented in September, only half of the population between the ages of 15 and 24 were sufficiently aware of methods for preventing HIV infection.

In July the Ministry of Health conducted a public awareness campaign regarding HIV/AIDS, using billboards, advertisements and informational events. In September the Ministry of Labor launched a campaign to eliminate labor discrimination based on pregnancy or HIV status.

Between November 7 and 11, the government hosted Central America's first regional summit on HIV/AIDS to raise awareness about the disease and available preventative measures.

In September two bodyguards of the prisons director were accused of sexually abusing a transvestite minor whom they picked up on the streets in a government vehicle. By year's end a court had ordered them released on bail pending trial.

There were no developments during the year regarding an investigation into the March 2004 separate killings of transvestite Jose Flores Natividad Duran and transvestite David Antonio Andrade Castellano.

There were no reported developments regarding an investigation into the 2003 killings of transvestites Jose Cornado Galdamez, Reyes Armando Aguilar, and Jose Roberto de Paz.

Section 6. Worker Rights

a. The Right of Association.—While the law provides for the right of workers (except military personnel, national police, and government workers) to form unions without previous authorization, there were problems in the exercise of this right.

Worker complaints that the government impeded the exercise of the right of association were supported by the ILO Committee on Freedom of Association. Union leaders asserted that the government and judges continued to use excessive formalities as a justification to deny applications for legal standing to unions and federations. Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers. According to Ministry of Labor's end of year statistics, 9.1 percent of the country's total workforce, including the formal and informal sectors, was unionized, compared with government statistics in 2004 indicating that 30 percent of the formal sector workforce was unionized.

There were no further developments regarding the order of the Supreme Court for the Ministry of Labor to present a report regarding its 2003 denial of registration to the communications union SITCOM.

The law does not require employers to reinstate illegally dismissed workers. Employers dismissed workers who tried to form unions, and in most cases, the government did not prevent their dismissal or seek their reinstatement.

In April workers attempted to form a union at Hermosa Manufacturing Company, and in May the owner closed the factory, claiming that there was an insufficient supply of raw materials to continue operations. Workers filed grievances with the Ministry of Labor, and at year's end payment of all wages and benefits legally due to employees was still pending in the courts.

On November 25, the Evergreen Manufacturing Company closed its factory, leaving 550 workers without jobs, and refused to pay back wages and benefits. The owners alleged that they were suspending operations for three months due to a lack of orders from buyers. The Ministry of Labor was investigating the case at year's end.

The law specifies 18 reasons for which an employer can legally suspend workers, and employers can invoke 11 of these reasons without prior administrative or judicial authorization. Workers and the ILO reported instances where employers used illegal means to undermine union organizing, including the dismissal of labor activists and the circulation of lists of workers who would not be hired because they had belonged to unions.

At year's end the Ministry of Labor reported that the country had 178 active unions and 174 registered unions, 18 labor federations, and 3 labor confederations. In July the Ministry of Labor granted official status to the Port Industry Workers Union of El Salvador (STIPES).

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining for employees in the private sector and for certain categories of workers in autonomous government agencies, such as utilities and the port authority. Ministry of Labor statistics as of June reported 252 collective bargaining agreements in effect, covering 53,091 workers. Labor leaders asserted that the government had an unfair advantage in arbitration of public sector labor disputes, because the government holds two of three seats on arbitration panels.

With the exception of public workers that provide vital community services, the law recognizes the right to strike, and workers exercised this right in practice. Despite the prohibition on strikes by public sector workers performing vital community services, the government generally treated work stoppages called by such worker associations as legitimate. In July the Supreme Court ruled in favor of and awarded severance payments to workers of the Governance Ministry who had gone on a hunger strike in May to protest unfair dismissal.

In order for a strike to be legal, 51 percent of workers in an enterprise must support a strike, including workers not represented by the union. Unions may strike only after the expiration of a collective bargaining agreement or to protect professional rights. Unions first must seek to resolve differences through direct negotiation, mediation, and arbitration before striking. A strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot, and the union must name a strike committee to serve as a negotiator and send the list of names to the labor ministry, which notifies the employer. The union must wait four days from the time the labor ministry notifies the employer before beginning the strike.

There were approximately 240 maquila plants, the majority of which were located in the country's 15 EPZs. There are no special laws or exemptions from regular labor laws in the EPZs. There were credible reports that some factories in the EPZs dismissed union organizers, and there were no collective bargaining agreements among the 14 unions active in the maquila sector. Maquila workers reported verbal and physical abuse, and sexual harassment by supervisors. The government did not allocate sufficient resources for adequate inspection and oversight to ensure respect for association and collective bargaining rights in EPZs. There continued to be allegations of corruption among labor inspectors in the maquilas.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, except in the case of natural catastrophe and other instances specified by law. Although the government generally enforced this prohibition, there were problems with trafficking of persons for forced commercial sexual purposes (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under the age of 14, but child labor remained a significant problem.

During the year the ILO International Program on the Elimination of Child Labor (IPEC) removed 4,476 children from work and prevented 7,654 at-risk children from entering labor activities, including worst forms of child labor, such as commercial sexual exploitation, dumpsite scavenging, and sugarcane production. This program, conducted in coordination with government agencies, constituted the government's official effort to combat child labor. The program included educational services, com-

munity awareness initiatives, community participation, institutional participation, and transitional assistance to families. The Ministry of Labor reported that it had conducted awareness training for 2,727 personnel managers.

The law limits the workday to 6 hours (plus a maximum of 2 hours of overtime) for youths between 14 and 16 years of age and sets a maximum normal workweek for youths at 34 hours. For all sectors of the economy, the law prohibits those under the age of 18 from working in occupations considered hazardous (see section 6.e.). The Ministry of Labor was responsible for enforcing child labor laws. In practice labor inspectors focused almost exclusively on the formal sector, where child labor was rare. There were no reports of child labor in the formal industrial sector.

The government did not devote adequate resources to enforce effectively child labor laws in the sugar plantations and other agricultural activities and in the large informal sector. Orphans and children from poor families frequently worked for survival as street vendors and general laborers in small businesses. The Ministry of Labor received few complaints of violations of child labor laws because many citizens perceived child labor as an essential component of family income rather than a human rights violation.

There were credible reports of trafficking in children and child prostitution (see section 5).

During the year the Ministry of Labor conducted 184 inspections, 68 follow-up visits, and issued civil penalties in 2 cases.

During the year the government's National Interagency Committee for Elimination of the Worst Forms of Child Labor received legal status, undertook a strategy to combat child labor, and improved coordination among child welfare agencies.

e. Acceptable Conditions of Work.—The minimum wage is set by executive decree based on recommendations from a tripartite committee comprising representatives from labor, government, and business. The minimum daily wage, last set in 2003, was \$5.28 for service employees, \$5.16 for industrial laborers, and \$5.04 for maquila workers. The agricultural minimum wage was \$2.47, with \$3.57 for seasonal agriculture industry workers. The minimum wage with benefits did not provide a decent standard of living for a worker and family.

The Ministry of Labor generally enforced minimum wage laws effectively only in the formal sector. Some maquila plants underpaid workers and failed to compensate workers for mandatory overtime. Corruption among labor inspectors and in the labor courts remained barriers to enforcing the minimum wage laws.

The law sets a maximum normal workweek of 44 hours, which is limited to no more than 6 days for all workers and requires bonus pay for overtime. The law mandates that full-time employees be paid for an 8-hour day of rest in addition to the 44-hour normal workweek. These standards were not enforced effectively. A number of workers who worked more than the legal maximum number of hours were not paid overtime. The law prohibits compulsory overtime.

The law requires all employers to take steps to ensure that employees are not placed at risk to their health and safety in the workplace, including prohibitions on the employment of persons under 18 years of age in occupations considered hazardous or morally dangerous. Health and safety regulations were outdated, and enforcement was inadequate due to the Ministry of Labor's restricted powers and the limited resources allocated to it by the government. The law does not clearly recognize the right of workers to remove themselves from hazardous situations without jeopardy to their continued employment.

GRENADA

Grenada is a parliamentary democracy with a bicameral legislature. Grenada and two smaller islands, Carriacou and Petite Martinique, have a population of approximately 102 thousand. In 2003 Prime Minister Keith Mitchell's New National Party (NNP) won 8 out of 15 parliamentary seats in generally free and fair elections. The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were societal problems in a few areas:

- allegations of corruption
- violence against women
- instances of child abuse

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no confirmed reports that government officials employed them. However, there were occasional allegations that police beat persons being detained. Flogging, a legal form of punishment, was rare but was used as punishment for sex crimes, which accounted for 50 percent of court cases.

Prison and Detention Center Conditions.—Prison conditions generally met international standards.

The government permitted visits by independent human rights observers, but none were known to have taken place during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The 830-person national police force, plus an additional 200 rural constables, has a hierarchical structure and generally was effective in responding to complaints. However, lack of resources remained a problem. The police report to the minister of national security, who works in the prime minister's ministry.

There were reports of corrupt or abusive police. By year's end authorities had not charged anyone in the theft of evidence, including cocaine and money, from a secure police evidence lock-up. There were allegations against a few members of the police force involving sex crimes and several others for assault. The authorities discharged one entry-level policeman for beating up a person and another entry-level policeman for running a small brothel. In late October citing a need to improve leadership within the force, authorities relieved two senior police officials of their jobs. Investigations into police looting after Hurricane Ivan in 2004 did not result in charges brought against anyone.

The police investigated allegations of police brutality internally. The police commissioner can discipline officers (up to the rank of sergeant) in cases of brutality with penalties that include dismissal. Only the Public Service Commission can discipline officers with the rank of inspector or above.

Arrest and Detention.—The law permits police to detain persons on suspicion without a warrant, but they must bring formal charges within 48 hours, and this limit generally was respected in practice. The law provides for a judicial determination of the legality of detention within 15 days after arrest on a criminal charge. The police must formally arraign or release a detained person within 60 days, and the authorities generally followed these procedures. There is a functioning system of bail, although persons charged with capital offenses are not eligible. Persons charged with treason may be accorded bail only upon the recommendation of the governor general. In practice detainees are provided access to a lawyer and family members within 24 hours.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary is a part of the Eastern Caribbean legal system. There are three resident judges who hear cases in the High Court. An appeals court, staffed by a chief justice who travels between the Eastern Caribbean islands, hears appeals. Final appeal may be made to the Privy Council in the United Kingdom.

Trial Procedures.—The law provides for the right to a fair public trial, and the authorities generally observed this right in practice. There is a presumption of innocence, and the law protects persons against self-incrimination and requires the police to explain a person's rights upon arrest. The accused has the right to remain silent and to seek the advice of legal counsel. A defense lawyer has the right to be present during interrogation and may advise the accused how to respond or not to respond to questions. The accused has the right to confront his accuser and has the right of appeal.

The court appoints attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reach the appellate stage, the court appoints a lawyer to represent the accused if the defendant was not represented previously or reappoints earlier counsel if the appellant no longer could afford that lawyer's services. With the exception of persons charged with a killing and foreign-born drug suspects, the courts grant most defendants bail while awaiting trial.

Political Prisoners.—In 2004 the High Court was set to resentence or possibly free 14 members of the “Grenada 17,” who were convicted for the 1983 murder of Prime Minister Maurice Bishop, until the government appealed the decision to the Eastern Caribbean Supreme Court. In June that court ruled that the group could take its case for resentencing to the Privy Council in London. The 14 persons remained in prison, except for one released to another country for medical treatment. In 2003 Amnesty International (AI) classified the “Grenada 17” as political prisoners based upon its findings that their original trial was unfair, and that subsequent appeals were manipulated for political reasons.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

The prime minister publicly criticized the media for lack of objectivity and poor quality of its work. He successfully sued one opposition-affiliated newspaper for libel and won a large judgment against it. There was widespread reporting of allegations of corruption against the prime minister and several of his ministers.

In September the government launched the Government Information Service (GIS), a television channel that carries public service announcements, government-sponsored events, speeches by cabinet ministers, sessions of parliament, etc. The country’s two other television channels are independent. Opposition spokespersons criticized the GIS as a waste of money.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitism. There was no organized Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law does not address forced exile, but the government did not use it.

Protection of Refugees.—The government has not established a system for providing protection to refugees or asylum seekers. In practice the government provided protection against *refoulement*, the return of persons to a country where they fear persecution, but does not routinely grant refugee status or asylum. Although the government could provide temporary protection to individuals who may not qualify as refugees under the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, no one sought such protection during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In 2003 the incumbent NNP administration of Prime Minister Keith Mitchell retained power by winning 8 of the 15 seats in parliamentary elections generally considered free and fair, but with some irregularities noted by the Organization of American States in several very close races.

Late in the year the government began an examination of the constitutional provisions regarding dual citizenship and qualifications for election to parliament. The result may lead to a court decision as to whether a leading opposition member’s 2003 election should be nullified and his seat given to his opponent in that election.

There were 4 women in the 15-seat parliament and 4 women among the 12 appointed senators. There were six female ministers of government.

Government Corruption and Transparency.—There were allegations that the government attempted to divert hurricane assistance to its own NNP supporters and to constituents with NNP parliamentarians. There were continued allegations of past corruption, especially involving the now eliminated offshore banking sector.

There are no laws mandating transparent reporting of political donations. During the year the opposition National Democratic Congress admitted that it had received \$1 million in funding from China for the 2003 election.

In August 2004 a Commission of Inquiry began to investigate whether Prime Minister Mitchell accepted money from a German citizen, reportedly in exchange for receiving a diplomatic title. The prime minister claimed the cabinet approved the money, and that it was for legitimate trade promotion expenses. At year's end the German citizen remained jailed in a foreign country on unrelated fraud charges. The commission met for two weeks in May–June, when various officers who served in the foreign ministry, as well as the prime minister's bodyguards, were questioned publicly. The commission adjourned but had not given a report by year's end.

Although there is no law providing for public access to government information, citizens may request access to any information that is not deemed classified.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The Truth and Reconciliation Commission, launched in 2001 to investigate the period between the mid-1970s and the late 1980s, had not presented its final report to the government, which was due in June 2004. The government did not react to AI's 2003 claim that the trial and sentencing of the 17 convicted leaders of the 1983 revolutionary government was flawed.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, place of origin, political opinion, color, creed, or gender, and the government generally enforced these prohibitions.

Women.—Women's rights monitors noted that violence against women remained a serious problem. The law prohibits domestic violence and provides for penalties at the discretion of the presiding judge based on the severity of the offense. Police and judicial authorities usually acted promptly in cases of domestic violence. Sentences for assault against a spouse vary according to the severity of the incident. In practice the court enforced the law. At year's end there were three cases before the court against husbands who killed their wives. A shelter accommodating approximately 20 battered and abused women and their children operated in the northern part of the island, staffed by medical and psychological counseling personnel.

The law criminalizes rape, including spousal rape, and stipulates a sentence of flogging or up to 15 years' imprisonment for a conviction of any nonconsensual form of sex.

Prostitution is illegal but existed.

The law prohibits sexual harassment, but there are no criminal penalties for it. It is the responsibility of the complainant to bring a civil suit against an alleged harasser; there were no reported cases during the year.

Women generally enjoy the same rights as men, and there was no evidence of official discrimination in health care, employment, or education; however, women frequently earned less than men performing the same work.

Children.—The government was committed to children's rights and welfare. The Social Welfare Division within the Ministry of Housing, Social Services, and Cooperatives provided probationary and rehabilitative services to youths, day care services and social work programs to families, assistance to families wishing to adopt or provide foster care to children, and financial assistance to the six children's homes run by private organizations.

Education is compulsory, free, and universal until the age of 16.

Boys and girls have equal access to medical care.

Government social service agencies reported no increase in the number of cases of physical and sexual abuse of children, but stated that cases of child neglect increased during the year, compared to 2004. Abused children were placed either in a government-run home or in private foster homes. The law stipulates penalties ranging from 5 to 15 years' imprisonment for those convicted of child abuse and disallows the victim's alleged "consent" as a defense in cases of incest.

Trafficking in Persons.—The law does not address trafficking in persons specifically; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law does not protect job seekers with disabilities from discrimination in employment. The law does not mandate access to public buildings or services. The government expanded the provision of special education in its school system. Persons with disabilities had full access to the health care system and other public services. In the aftermath of Hurricanes Ivan and Emily, the government placed a high priority on providing assistance to those with disabilities. The government as well as nongovernmental organizations provided training and work opportunities for such persons.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join independent labor unions. Although employers are not legally obliged to recognize a union formed by their employees, they generally did so in practice. Labor Ministry officials estimated that 47 percent of the work force was unionized.

All major unions belong to one umbrella labor federation, the Grenada Trades Union Council, which was subsidized by the government.

b. The Right to Organize and Bargain Collectively.—Workers exercised the legal right to organize and to participate in collective bargaining. The law requires employers to recognize a union that represents the majority of workers in a particular business. There are no export processing zones.

The law provides workers with the right to strike, and workers exercised this right in practice.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although child labor is illegal, children sometimes worked in the agricultural sector on family farms. The statutory minimum age for employment of children is 18 years. Inspectors from the Ministry of Labor enforced this provision in the formal sector through periodic checks, but enforcement in the informal sector remained a problem.

e. Acceptable Conditions of Work.—The Labor Ministry last updated minimum wages in 2002. Minimum wages were set for various categories of workers; for example, agricultural workers were classified into male and female workers. Rates for men were \$1.85 (EC\$5.00) per hour, and for women \$1.75 (EC\$4.75) per hour; however, if a female worker performed the same task as a man, her rate of pay was the same. The minimum wage for domestic workers was set at \$148 (EC\$400) monthly. The minimum wage did not provide a decent standard of living for a worker and family. The government effectively enforced minimum wages; workers in construction-related sectors and other high-demand sectors earned far higher wages.

The law provides for a 40-hour maximum workweek. The normal workweek in the commercial sector includes Saturday morning work but did not exceed 40 hours. The law requires a premium for work above the standard workweek and prohibits excessive or compulsory overtime.

The government sets health and safety standards, but the authorities enforced them unevenly. Workers have the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

GUATEMALA

Guatemala is a democratic republic with a population of approximately 12.7 million. In 2003 national elections, generally considered by international observers to be free and fair, Oscar Berger of the Grand National Alliance coalition (GANA) won a 4-year term, which began in January 2004. While the civilian authorities generally maintained control of the security forces, there were some instances in which members of the police force acted independently.

While the government generally respected the human rights of its citizens, serious problems remained. Corruption and substantial inadequacies in the police and judicial sectors, widespread societal violence, and impunity for criminal activity continued. The following human rights and societal problems were reported:

- unlawful killings committed by members of the security forces
- widespread societal violence, including numerous killings
- police involvement in kidnappings
- harsh and dangerous prison conditions
- arbitrary arrest and detention

- failure of the judicial system to ensure full and timely investigation, fair trials, or due process
- failure to protect judicial sector officials, witnesses, and civil society organizations from intimidation
- impunity
- discrimination and violence against women
- trafficking in persons, including commercial sexual exploitation of children
- ethnic discrimination, particularly against indigenous people
- ineffective enforcement of labor laws, including child labor provisions

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Although the government and its agents did not commit any politically motivated killings, members of the police force committed a number of unlawful killings. A weak investigative, enforcement, and prosecutorial system, however, prevented adequate investigation of many such killings and other crimes, as well as the arrest and successful prosecution of perpetrators (see sections 1.c. and 1.e.).

During the year the National Civilian Police (PNC) Office of Professional Responsibility (ORP) investigated 24 reports of police involvement in killings.

On December 17, a transvestite was shot and killed and another injured by four individuals that some non-governmental organizations (NGOs) alleged were dressed as police officers (see section 5).

On December 7, the High Impact Court of Chiquimula convicted 2 police officers for the October 2004 beating and killing of a detainee in the police substation and sentenced each officer to 25 years in prison.

There were no significant developments regarding the August 2004 confrontation between peasants and members of the PNC at Nueva Linda plantation, in which 3 police and 7 workers were killed.

There were no new developments and none were expected concerning any investigation into the January 2004 killing of former gang member David Ixcol Escobar.

In June Colonel Luis Carvajal, former head of the Army's protocol office, was sentenced to 25 years in prison for the 2003 killing of his wife, Ingrid Lima de Carvajal. Other suspects in the case were released for lack of evidence.

On October 28, Juan Carlos Munoz Castillo was found guilty and sentenced to 40 years in prison for the 2003 killing of Josue Israel Lopez, auxiliary human rights ombudsman for Chimaltenango Province. The other defendant in the case was acquitted.

On June 2, a court convicted 5 men and sentenced them to 100 years each in prison for their involvement in the 2002 abduction and murder of Antonio Pop Caal, an activist for indigenous rights.

Most cases of political killings from past years remained unresolved, such as the 2001 killing of Luis Garcia, a witness in the 1998 killing of Bishop Juan Gerardi. On March 23, an appeals court changed the sentence for Byron Lima Estrada and Byron Lima Oliva from coauthors of the 1998 murder of Bishop Juan Gerardi to accessories, thus reducing the sentence delivered in 2001 from 30 to 20 years each in prison. The 20-year sentence of the other accessory, Father Mario Orantes, remained unchanged.

On October 22, the Supreme Court of Justice confirmed the July 2004 ruling of a lower court convicting 14 military personnel, including 1 lieutenant, to 40 years in prison each for the murder of 11 and injury of 35 civilians during the 1995 Xaman massacre.

There were no new developments regarding the search for fugitive Colonel Juan Valencia Osorio, whose 25-year prison sentence for being the intellectual author of the 1990 killing of anthropologist Myrna Mack Chang was reinstated by the Supreme Court of Justice in January 2004. At year's end Valencia had been at large for almost two years. In February the government paid its first installment to the Mack family towards the \$820 thousand (6.2 million quetzales) reparations judgment ordered by the Inter-American Court of Human Rights.

On August 29, in response to an Inter-American Court of Human Rights ruling, the government formally accepted responsibility for the kidnapping and killing of 10 university students in 1989. At year's end there remained 72 other cases involving the country before the Inter-American Court of Human Rights, most regarding events from the period of the internal armed conflict.

On July 18, the anniversary of the 1982 Plan de Sanchez massacre in which the army and paramilitary civilian self-defense patrols (PACs) killed 268 people, the

government issued a formal apology and statement of responsibility, as ordered by the Inter-American Court of Human Rights.

During her July visit, the vice president and rapporteur for Guatemala of the Inter-American Commission on Human Rights stressed the government's positive attitude in its dialogue with the organs of the Inter-American human rights system and underscored the need for the National Reparations Commission to move effectively and decisively ahead with a plan to compensate victims of the armed conflict.

On December 22, the National Reparations Program, headed by respected victims' advocate Rosalina Tuyuc, made its first disbursements of funding received from the government in May 2004 to families of victims of the internal conflict.

At year's end the case of the 1982 military massacre of 250 civilians at Dos Erres, Peten, remained stalled in court due to appeals made by defendants.

During the year eight justice workers, including two judges, were killed (see section 1.e.).

At least two protesters were killed during the year, reportedly by either security forces or fellow protesters (see section 2.b.).

On September 2, an unknown gunman killed in Guatemala City Harold Rafael Perez Gallardo, legal advisor to the NGO Casa Alianza. At year's end the matter remained under investigation by police authorities.

Societal violence was widespread. Non-state actors with links to organized crime, gangs, private security companies, and alleged "clandestine groups" committed hundreds of killings and other crimes. Human rights activists alleged that these persons also were responsible for threats, assaults, burglaries, and thefts targeted at human rights organizations. Reports also suggested that former or current members of the police condoned or were involved in some of the attacks and other abuses.

Killings, including evidence of sexual assault, torture and mutilation, of women continued at an alarming rate (see section 5).

Killings of children, particularly in Guatemala City, increased during the year (see section 5).

Police sources indicated 14 lynchings took place during the year, compared with 7 such incidents in 2004. Many observers attributed the rise in lynchings from the previous year to increased public frustration with the failure of the justice sector to guarantee security. Among the victims were civil servants or police officials who had taken unpopular actions in either enforcing or not enforcing the law.

There were also other incidents of societal violence, including the October 17 burning of a police station in San Juan Ostuncalco, Quetzaltenango Department, by a mob seeking to kill two persons suspected of stealing, who were detained in the police station.

b. Disappearance.—Although there were no reports of politically motivated disappearances, there were reports of police involvement in kidnappings for ransom. The PNC Office of Professional Responsibility investigated 10 police officers for involvement in kidnappings; 1 officer was found guilty and dismissed from his job with criminal charges pending at year's end. The investigations of other officers were ongoing. The Organized Crime Unit of the prosecutor's office reported that PNC elements were involved in 11 kidnapping cases, at times in cooperation with large criminal organizations.

On October 21, a criminal court convicted former PNC official Rudy Arnulfo Giron Lima, current PNC official Marvin Utrilla Marin, and four others for kidnapping the nephew of Lizardo Sosa, President of the Bank of Guatemala. Giron Lima, Utrilla Marin, and the other individual defendant, Sergio Daniel Garcia, each received 63 year sentences (see section 5). The other three defendants each received a sentence of 53 years in prison.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, during the year there were credible reports of torture, abuse, and other mistreatment by members of the PNC. Complaints typically related to the use of excessive force during police operations and arbitrary detention of suspected gang members and others targeted during extortion schemes.

There were no further developments regarding the March 2004 detention and beating of Mynor Alvarado de Leon of the NGO Center for Legal Action on Human Rights.

There were credible reports that PNC officials or persons disguised as police officers stopped cars and buses to demand bribes or steal private property. In some cases the supposed police officers assaulted and raped victims.

Prison and Detention Center Conditions.—Prison conditions remained harsh and dangerous. The prison system continued to suffer from a severe lack of resources, particularly in the areas of prison security and medical facilities. Prisoners complained of inadequate food and medical care. Corruption, especially drug-related,

was widespread. Prison officials reported frequent escape attempts and other manifestations of prisoner unrest. The Institute of Comparative Studies in Criminal Sciences, an NGO dedicated to study of the justice sector, released a report during the year that indicated 80 percent of women in detention reported abuses of some kind, including at least 5 cases of rape.

Prison overcrowding was a problem. According to the registry maintained by the prison system, there were 8,247 persons held in 40 prisons and jails designed to hold 6,974. Approximately 60 percent of the national penitentiary system population was held in pretrial detention.

On August 15, gang violence within the penitentiary system claimed 36 lives in 4 prisons. Prisoners from opposing gangs attacked each other with shotguns and edged weapons that were smuggled into the prison, in some cases reportedly with the knowledge of prison guards. The incident followed months of press reports regarding the availability of contraband items within prisons, including weapons. The special rapporteur on the rights of persons deprived of liberty of the Inter-American Commission on Human Rights stated that the "serious structural problems of the prison system together with the especially precarious conditions in which juvenile offenders were incarcerated and the lack of effective controls to prevent the entry of weapons in the detention centers were contributing factors to the violent events of August 15." At year's end the incident and the identities of those persons responsible for smuggling weapons into the prisons remained under investigation. During the year attempts by prison authorities to segregate inmates by gang affiliation did not resolve violence issues in the prison system.

On September 19, an outbreak of violence between gang member inmates at the San Jose Pinula Juvenile Detention Center claimed the lives of 14 juvenile inmates; violence at the Departmental Rehabilitation Center of Puerto Barrios, Izabal, claimed the lives of 3 adult inmates. The incidents were under investigation at year's end.

On December 16, an intra-gang dispute in a prison in Mazatenango resulted in the killing of one gang member inmate. The incident remained under investigation at year's end.

On rare occasions male and female detainees in immigration facilities were held together. Pretrial detainees sometimes were held in the same prison blocks with the general prison population.

The government permitted prison monitoring visits by local and international human rights groups, the Organization of American States, public defenders, religious groups, and family members, and such visits took place throughout the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, but there were credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice, arresting officers often failed to satisfy legal requirements due to the failure of magistrates to receive the case within the legally-mandated timeframe of six hours.

Role of the Police and Security Apparatus.—The 18,000-member PNC, headed by a director appointed by the president, remained understaffed, poorly trained, and severely underfunded. During the year the Public Ministry determined that the death of a PNC officer, during July 2004 police officer protests about poor living conditions at the Police Academy, was a suicide.

Police corruption was a serious problem and there were credible allegations of involvement by individual police officers in criminal activity, including rapes, killings, and kidnappings. Police impunity remained a problem. When ORP investigations failed to elicit successful administrative or judicial punishment, the PNC often transferred suspected officers to different parts of the country. Attempts to curb impunity included placing 1,200 officers in employment dismissal proceedings.

While no active members of the military served in the police command structure, the government continued to employ the military to support the police in response to the rising rates of violent crime. Joint police and military operations under operational control of the PNC continued in areas of the capital with the highest crime rates.

Police threatened persons engaged in prostitution and other commercial sexual activities with false drug charges to extort money or sexual favors and harassed homosexuals or transvestites with similar threats of false charges (see section 5). Critics accused the police of indiscriminate and illegal detentions when conducting antigang operations in specific high-crime neighborhoods. Suspected gang members allegedly were arrested and imprisoned without charges or on the basis of false drug charges, and in some instances were arrested without a warrant and not in the commission of a crime.

The ORP performed internal investigations of misconduct by police officers. Although the ORP has increased its professionalism in recent years, its independence and effectiveness were hampered by a lack of material resources and the absence of cooperation from other PNC units. The ORP reported that by year's end, it had received 1,653 complaints, which included: 31 homicides, 411 thefts, 29 rapes, 269 cases of corruption or bribery, 91 threats, and 30 illegal detentions.

Although cases with sufficient evidence of criminal activity were forwarded to the Public Ministry for further investigation and prosecution, few cases went to trial. Throughout the year ORP investigations resulted in the removal from duty of 532 police officers and exoneration of 81 officers.

Immigration and police officials often subjected persons attempting to enter the country illegally to extortion and mistreatment. Many civil society and media observers believed this mistreatment was underreported.

During the year the PNC trained 1,243 cadets in courses that included human rights and professional ethics. The military continued to incorporate human rights training into its curriculum and developed relevant courses with the Office of the Human Rights Ombudsman. Civil affairs officers at each command were required to plan and document human rights training provided to soldiers, and the officers met this requirement during the year.

Approximately two-thirds of the police districts remained understaffed. Indigenous rights advocates asserted that police authorities' continuing lack of sensitivity to indigenous cultural norms and practices engendered misunderstandings in dealing with indigenous groups and that few indigenous police officers worked in their own ethnic-linguistic communities.

Arrest and Detention.—The law requires that a court-issued arrest warrant be presented to a suspect prior to arrest unless the suspect was caught in the act of committing a crime. Police may not detain a suspect for more than six hours without bringing the case before a judge. Detainees often were not promptly informed of the charges filed against them. Once a suspect has been arraigned, the prosecutor generally has three months to complete the investigation and file the case in court or seek a formal extension of the detention period. The law provides for access to lawyers and bail for most crimes. The government provided legal representation for indigent detainees, and detainees had access to family members.

There was no reliable data on the number of arbitrary detentions, although most accounts indicated that police forces routinely ignored writs of habeas corpus in cases of illegal detention, particularly during neighborhood antigang operation.

There were no reports of political detainees.

Although the law sets a limit of three months for pretrial detention, prisoners often were detained past their legal trial or release dates, sometimes for years. During the year 60 percent of those incarcerated were in pretrial detention. Some prisoners were not released in a timely fashion after completing their full sentences due to the failure of judges to issue the necessary court order or to other bureaucratic problems. A judge has the discretion to determine whether bail is necessary or permissible for pretrial detainees depending on the circumstances of the charges. Detainees who are offered bail but are unable to pay, or choose not to pay, must remain in jail.

e. Denial of Fair Public Trial.—While the law provides for an independent judiciary, the judicial system often failed to provide fair or timely trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. The majority of serious crimes were not investigated or punished. Many high-profile criminal cases remained pending in the courts for long periods as defense attorneys employed successive appeals and motions.

During the year there were numerous reports of corruption and manipulation of the judiciary. Judges, prosecutors, plaintiffs, and witnesses also continued to report threats, intimidation, and surveillance. The special prosecutor for crimes against justice sector workers received 79 cases of threats or aggression against judges, compared with 61 in 2004. During the year eight judicial sector workers were killed by unknown assailants. For example, on March 21, Justice of the Peace Jose Antonio Cruz Hernandez was killed in San Pedro Ayampuc. On April 25, High Impact Court Judge Jose Victor Bautista Orozco was killed in San Marcos in front of his house. At year's end each of these cases was under investigation. There were credible reports of killings of witnesses. Less than 3 percent of reported crimes were prosecuted, and significantly fewer received convictions.

There were no significant developments regarding the July 2004 killing of Jesus Mendoza, cousin of Bamaca case witness Otoniel de la Roca Mendoza.

The Supreme Court of Justice continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its

jurisdiction. During the year the Judicial Discipline Unit investigated and held hearings for 147 of 597 complaints of wrongdoing, with the result that 60 claims were found to be baseless, 45 magistrates received written or verbal warnings including suspensions, 7 judges were fired, and the remaining cases were still under investigation at year's end.

Prosecutors remained susceptible to intimidation and corruption. The law's failure to delineate between the PNC and the Public Ministry in taking responsibility for investigating crimes led to organizational rivalries and the duplication of investigative efforts. An estimated 3 percent of approximately 250 thousand complaints filed with the Public Ministry during the year were prosecuted.

The judiciary consisted of the Supreme Court of Justice, appellate courts, trial courts, and probable-cause judges (with a function similar to that of a grand jury), as well as courts of special jurisdiction, including labor courts and family courts. More than 350 justices of the peace were located throughout the country. Some of the justices specialized in administering traditional and indigenous law in community courts, which were under the jurisdiction of the Supreme Court of Justice. The Constitutional Court, which reviews legislation and court decisions for compatibility with the constitution, is independent of the rest of the judiciary.

Between January and August, the Public Ministry had approximately 50 persons in its witness protection program.

Trial Procedures.—The law provides for the right to a fair, public trial, the presumption of innocence, the right to be present at trial, the right to counsel, plea-bargaining, the possibility of release on bail and the right to an appeal. Three-judge panels render verdicts. The law provides for oral trials, and requires language interpretation for those needing it, in particular the large number of indigenous persons who were not fluent in the Spanish language (see section 5). Inadequate government funding allocations limited the effective application of this legal requirement. The Public Ministry concentrated 16 interpreters in former conflict areas of the country, and the Office of the Public Defender employed 9 bilingual public defenders who were assigned to areas where they could serve as translators in addition to defending clients.

The Public Ministry, semi-independent of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as co-plaintiffs. Lengthy investigations and frequent procedural motions used by both defense and prosecution often led to excessively long pretrial detention (see section 1.d.), frequently delaying trials for months or years.

Political Prisoners.—There were no reports of political prisoners. Several former government officials imprisoned on corruption charges, including former vice president Reyes Lopez, claimed that the charges against them were politically motivated.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Human rights defenders alleged that individuals affiliated with clandestine armed groups participated in a number of illegal entries into their homes and offices. The Public Ministry investigated a number of these cases but failed to identify suspects for prosecution.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet.

On April 5, Tenth Sentencing Tribunal judges sentenced Juan Carlos Rios Ramirez, Enma Concepcion Samayoa de Rosales, Ana Cristina Lopez Kestler, Vilma Orellana Ruano, and Elvia Morales de Lopez each to three years in prison under the country's antidiscrimination law. The five were convicted for making racist insults against indigenous activist Rigoberta Menchu at a 2003 Constitutional Court hearing.

Although the independent media, including international media, operated freely and were active and expressed a wide variety of views without government restriction, there were reports that members of the media were targets of threats and intimidation from unidentified persons. The Office of the Human Rights Ombudsman reported 26 incidents of intimidation against journalists through October, compared with 40 during 2004.

Reporters Without Borders reported that on July 11, former members of the civil defense patrols assaulted *Prensa Libre* correspondent Edwin Paxtor with machetes while he filmed a demonstration in Chiquimula Department. Paxtor also claimed to

have received anonymous death threats on September 23. The threats were reported to the ombudsman.

There were no further developments and none were expected concerning an investigation into the May 2004 beating of David Hernandez Rubio by two men. At the time of the beating, Hernandez Rubio and his brother Hector Ramirez were petitioning the Inter-American Commission on Human Rights for personal protection in relation to threats received by their family allegedly in connection with their father's work as a journalist.

The Public Ministry prosecuted two suspects connected with the 2003 home invasion of daily *El Periodico* publisher Jose Ruben Zamora. On February 25, one of the two defendants was convicted of illegal entry, threats, extortion, illegal detention, and theft, and was sentenced to 16 years in prison. At year's end this defendant had appealed the conviction, but remained in custody. The other defendant was acquitted, even though the evidence against both defendants appeared identical.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Whereas the law provides for freedom of assembly, and the government generally respected these rights in practice, there were some allegations of unnecessary use of force or inaction by the police during violent demonstrations.

On January 11, police dispersed protesters with tear gas and riot control units during an anti-mining protest in the Solola Department in which protesters burned vehicles, destroyed property, and attacked passers-by, including journalists covering the event. Approximately 20 persons were injured, including several police officers, and 1 person was killed by gunfire. The police investigation and media reports concluded that the police lost control of the situation and reacted inappropriately but that a stray bullet from other protesters who had been firing guns into the air killed the protester.

From March 1 to 15, a series of violent protests occurred in the capital, during which demonstrators threw rocks at bystanders, set fires, blocked roads and destroyed property. The press reported that the police used force in response to violent actions by protesters. The police overreacted in at least one instance in which officers beat a protestor who was committing an act of vandalism. Photos and video showed protestors setting fires to barriers and throwing rocks and bottles at police.

On March 15, during a protest in Huehuetenango Department, a protestor was shot and killed during a confrontation between armed protesters and police on a bridge. The final report of the investigation was not released by year's end.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination against persons for their religious beliefs or practices, including anti-Semitic acts. The Jewish population was approximately two thousand persons.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced internal and external exile, and the government did not use exile in practice. Self-imposed exile, however, was an occasional response by citizens who felt threatened or intimidated.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage for those 18 years of age and older. Members of the armed forces and police are not permitted to vote.

In the 2003 national elections, Oscar Berger of the GANA coalition won a 4-year term as president with approximately 54 percent of the vote. In the period leading up to those elections, at least 29 candidates for lower offices were killed. Despite some irregularities in the electoral registry, the Organization of American States' (OAS) international observation mission categorized the elections as generally free and fair.

There were 14 women in the 158-seat Congress of the Republic, 2 women on the Supreme Court of Justice and 1 woman in the rotating alternative position on the Constitutional Court. In October the justices of the Supreme Court of Justice elected for the first time a woman as president of that tribunal. There were 197 women serving as judges. There were two female ministers in the cabinet and six female presidential secretaries. Of the country's 331 mayors, 9 were women. There was 1 indigenous member in the cabinet, and 1 of 12 presidential secretaries was indigenous. There were 15 indigenous members of the 158-seat Congress of the Republic. Of the 331 mayors, 120 were indigenous people.

Government Corruption and Transparency.—Government corruption was widely perceived to be a serious problem, although according to the NGO Transparency International, public perception of corruption decreased slightly compared with 2004. At year's end the July 2004 charges of fraud against former Vice President Reyes Lopez remained pending. During the year the Public Ministry continued corruption investigations against former president Alfonso Portillo, former minister of government Byron Barrientos, and other senior members of the previous government. On December 22, authorities arrested Jorge Mario Nufio, congressional representative on the Social Security Institute's (IGSS) Board of Directors, after two years at large. Nufio had been in hiding since 2003, after inspections revealed that approximately \$46 million (350 million quetzals) was missing from IGSS funds.

On October 4, authorities convicted former comptroller general Oscar Dubon Palma of money laundering and embezzlement and sentenced him to 17 years in prison.

On August 8, a criminal court absolved former head of the IGSS Carlos Wohlers on corruption and abuse of authority charges. Government prosecutors appealed the decision, based on procedural issues. At year's end the appeal remained pending.

On March 30, former minister of finance Eduardo Weymann was found guilty of material falsification in the illegal transfer of \$5 million (38 million quetzales) from tax authorities. Weymann was sentenced to three years in prison, which was commuted to a fine of \$12 (90 quetzales) per day. At year's end the case was under appeal.

On February 24, the Public Ministry charged Arnaldo Heriberto Quezada Chapeton, director of the National Transit Authority, with corruption for receiving approximately \$20 thousand (156 thousand quetzales) from a driving education school. At year's end Quezada Chapeton remained at large after failing to appear at a September 1 pretrial hearing.

Former ministers of defense Eduardo Arevalo Lacs and Alvaro Lionel Mendez Estrada remained under investigation for corruption, and judicial authorities restricted their movements. Both were accused of embezzling \$121 million (906 million quetzales) from Ministry of Defense funds between 2001 and 2003.

A general freedom of information law remained stalled in Congress, and there were no other established mechanisms to enable citizens or non-citizens access to government information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Many NGOs and human rights workers and a number of trade unionists (see section 6.a.) reported threats or intimidation by unidentified persons and complained that the government did little to investigate these reports or to prevent further incidents. Only a small number of these cases were officially reported to authorities.

In July a resident Office of the UN High Commissioner for Human Rights (UNHCHR) opened at the government's invitation, with the mandate to provide the government with counsel and technical assistance to investigate and prosecute human rights abuses.

The government regularly provided security to homes and offices of human rights activists who received threats. The Myrna Mack Foundation and the Guatemalan Forensic Anthropology Foundation, for example, each received ongoing security protection through the end of the year.

During the year the Office of the Special Prosecutor for Human Rights opened 47 new cases, including matters involving anonymous telephoned or written threats, break-ins, physical assaults, as well as surveillance of workplaces, residences, and vehicular movements. The majority of such cases remained pending for lengthy periods without investigation or languished in the court system as defense attorneys filed successive motions and appeals to delay trials.

At year's end there were no further developments and none were expected regarding an investigation by the Public Ministry concerning several threatening phone calls received in July 2004 by the gay rights group Lesbirades.

Substantial threats were made against the lives and safety of persons involved in the exhumation of secret mass graves containing the bodies of victims of the 36-year internal armed conflict that concluded with the signing of peace accords in 1996. Forensics groups used the information obtained from the exhumations to verify eyewitness reports of massacres—of which the Commission for Historical Clarification recorded 669—and to charge alleged perpetrators of the massacres.

In August and September staff members of the Guatemala Forensic Anthropology Foundation (FAFG) received death threats including an incident on August 26, during which an unknown gunman confronted a family member of the foundation's director. There were also written threats against FAFG staff members for their forensics analysis work. The PNC provided protective details to the foundation and its staff through the end of the year.

The Committee of Guatemalan Widows, an organization of widows of the victims of the internal armed conflict, reported an August 15 death threat related to its exhumation activities. By year's end the government had not undertaken an investigation of this incident.

In January the Constitutional Court issued a final ruling that payments to former PAC members for services during the armed conflict were unconstitutional. As a result, PAC leaders publicly threatened human rights organizations during the year for launching legal challenges contesting these payments. In response to the threats, the government provided temporary police protection for several weeks to the organizations. At year's end there were no developments regarding an investigation by the authorities concerning these threats.

In July an OAS Inter-American Human Rights Commission rapporteur for Guatemala visited and noted with concern the increased level of violence, the persistence of serious shortcomings in the justice system, and the structural problems affecting full respect for human rights, all of which were aggravated by a lack of adequate protective measures and general impunity.

In January the Ministry of Government revealed an alleged plot to kill Bishop Alvaro Ramazzini, a prominent human rights activist. Police authorities conducted an investigation, but did not find any evidence to corroborate the threat.

Human Rights Ombudsman Sergio Morales, elected by the Congress of the Republic, reports to Congress and monitors the rights recognized under the constitution. The ombudsman's rulings do not have the force of law. The Office of the Human Rights Ombudsman operated without government or party interference and had adequate resources to undertake its duties. The office had the government's cooperation, and issued reports and recommendations that were made public, and the government responded to these reports.

At year's end there were no developments in the investigation to identify individuals who made threats in 2004 against ombudsman office field staff.

On September 17, a court absolved four former security guards and one other suspect in relation to a 2003 burglary of the ombudsman's office.

The President's Commission on Human Rights (COPREDEH), directed by human rights leader Frank La Rue, is charged with formulating and promoting the government's human rights policy, representing the government for past human rights abuse cases before the Inter-American Court of Human Rights, and negotiating amicable settlements in those cases before the Inter-American Commission on Human Rights. COPREDEH took a leading role in coordinating police protection for various human rights and labor activists throughout the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Whereas the law prohibits discrimination based on race, gender, disability, language, or social status, in practice the government frequently did not enforce these provisions due to inadequate resource allocations, corruption, and a dysfunctional judicial system (see sections 1.c. and 1.e.).

Women.—Violence against women, including domestic violence, remained a common and serious problem. The law prohibits domestic abuse, but does not provide prison sentences for cases of domestic abuse. Prosecutors noted that the law permits the charging of abusers with assault only if bruises from the abuse remained visible

for at least 10 days. The law provides for the issuance of restraining orders against alleged aggressors, police protection for victims, and requires the PNC to intervene in violent situations in the home. In practice, however, the PNC often failed to respond to requests for assistance related to domestic violence. Women's groups noted that few officers were trained to deal with domestic violence or provide victims' assistance.

The Program for Prevention and Eradication of Intrafamily Violence, a government program under the Presidential Spouse's Secretariat of Social Work, reported receiving approximately four calls a day via its emergency hot line from battered women and children. The Public Ministry reportedly received more than 13,703 complaints of family violence against women and children through September. During the year the Public Ministry achieved convictions in 105 of the 3906 cases it opened during the year.

Justices of the peace issued 1,364 orders of restraint against domestic violence aggressors and police protection for victims. Full investigation and prosecution of domestic violence and rape cases usually took an average of one year, and prosecutors noted that half of the victims of domestic violence who filed complaints failed to pursue their cases after their initial visit to the Public Ministry. The Network for Non-violence against Women estimated that 90 percent of incidents went unreported. The Public Ministry handled 9,267 cases against perpetrators of domestic violence, but there was no information on the number of prosecutions or convictions. Abusers were prosecuted, convicted, or otherwise punished. Although the law affords victims of domestic violence with protection, such as shelter, during the period of investigation, in practice there were insufficient facilities for this purpose.

The ombudsman for indigenous women provided social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. This office also coordinated and promoted action by government institutions and NGOs to prevent violence and discrimination against indigenous women but lacked human resources and logistical capacity to perform its functions on a national level. The office handled 440 cases from January until August and 3,159 cases since 2002, including labor conflicts and domestic violence.

Sexual offenses remained a serious problem. The law prohibits rape, including spousal rape and aggravated rape, and establishes penalties between 6 and 50 years in prison. Prosecutors from the Special Unit for Crimes against Women noted that reports of rapes had increased by 30 percent over the past 4 years, although some observers suggested that the increases might reflect improved record-keeping of crime statistics. Until 2004 the law provided that a rapist could escape charges by marrying the victim. Although the law no longer allows for this, judicial processes that were entered into before the law changed are judged according to the old law. During the year there were cases in which this occurred.

Police had minimal training or capacity for investigating or assisting victims of sexual crimes. The government maintained a PNC Special Unit for Sex Crimes, an Office of Attention to Victims, and a Special Prosecutor for Crimes against Women, Children, and Trafficking in Persons, but none of these units were effective in addressing sexual violence. The PNC in Guatemala Department reported opening 420 cases against sexual offenders and making 76 arrests relating to sexual violence. The Public Ministry reported achieving a nationwide total of 80 convictions out of 1,001 cases of rape and sexual abuse of women and minors it received through September. The UN Children's Fund (UNICEF) observed that rape victims sometimes did not report the violations for lack of confidence in prosecutions and fear of reprisals.

Between January and October the prosecutor's office reported receiving 749 cases of rape and sexual assault in Guatemala City. Of these, 84 cases went to trial resulting in 68 convictions with an average sentence of 6 to 20 years' imprisonment; 11 persons were absolved; and 5 cases were settled out of court.

During the year there was a significant increase in reports of disappearances and killings of women. At year's end the PNC reported 545 killings of women (among the 665 open police cases of suspicious deaths of women), compared with 531 during the year 2004. A number of the victim's bodies bore evidence of torture, sexual assault, and mutilation. Although the PNC attributed gang violence, narcotics trafficking, and domestic abuse as the probable causes for many of the killings, authorities were unable to identify the perpetrator or motives for approximately half of the killings. The killings of women as a percentage of total killings rose from 12 percent in 2004 to 12.5 percent during the year. Due to weaknesses throughout the judicial and law enforcement systems, including inadequate governmental allocation of resources to the PNC task force, police investigations of killings of women and of homicides generally were ineffective, resulting in the erosion of public confidence in these governmental institutions.

Although prostitution is legal, procuring and inducing a person into prostitution are crimes that can result in fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women and minors, primarily for the purpose of prostitution, is illegal and was a broadly recognized problem (see section 5, Trafficking).

Sexual harassment is not specified as a crime in the penal code, and during the year there were no accurate estimates of the incidence of sexual harassment. Human rights organizations reported, however, that sexual harassment was widespread, especially in industries in which the workforce was primarily female, such as the textile and apparel assembly sector. While the law establishes the principle of gender equality, in practice women faced job discrimination and were less likely to hold management positions. The 2002 National Study on Income and Spending, the most recent available, showed that indigenous women earned 58 percent of what indigenous men earned and that nonindigenous women earned 71 percent of what nonindigenous men earned. Women were employed primarily in low-wage jobs in the textile and apparel industries, agriculture, retail businesses, service sector, and the government, and were more likely than men to be employed in the informal sector, where pay and benefits generally were lower. Women may legally own, manage, and inherit property on an equal basis with men, including in situations involving divorce.

The Secretariat for Women's Affairs advised the president on the coordination of policies affecting women and their development, but did not undertake any concrete actions during the year to combat discrimination against women.

Children.—The government devoted insufficient resources to ensure adequate educational and health services for children.

Although the law provides for free compulsory education for all children up to the sixth grade, less than half the population had received a primary education. The UN Development Program's (UNDP) 2003 Human Development Report estimated that 40 percent of children who entered primary school finished their third year and 30 percent were promoted beyond sixth grade. Completion rates were lower in rural and indigenous areas. According to the Population Council's annual report, the average education level attained varied widely based on background and geographic region: the average nonindigenous child received 4.2 years of schooling. Indigenous children received an average of 1.3 years.

Boys and girls had equal access to medical care. UNICEF statistics reported that 67 percent of indigenous children suffered from chronic malnutrition.

Child abuse remained a serious problem. The Public Ministry reported 798 cases of child abuse during the year. The Social Secretariat for the Welfare of Children, with oversight for children's treatment, training, special education and welfare programs provided shelter and assistance to children who were victims of abuse but sometimes placed children under its care in shelters with other youths who had criminal records. Due to overload in the public welfare system, family courts during the year referred 165 girls to Casa Alianza, an NGO that focused on issues regarding street children; an additional 123 entered voluntarily as a result of street sweeps. The Special Prosecutor's Office for Women included a unit that investigated only child abuse cases.

Child prostitution was a problem (see section 5, Trafficking and section 6.c.).

Child labor was a widespread and serious problem. According to the International Labor Organization (ILO), almost one quarter of children had to work to survive (see section 6.d.).

Credible estimates put the number of street children at five thousand nationwide, approximately three thousand of them in Guatemala City. Most street children ran away from home after being abused. Casa Alianza reported that increased gang recruitment decreased the number of street children in the capital, because after joining a gang, street children often lived with fellow gang members and no longer slept on the streets. Casa Alianza reported that from January until mid-November, 334 children were killed in Guatemala City, compared with 173 killed during 2004. Criminals often recruited street children for purposes of stealing, transporting contraband, prostitution, and illegal drug activities. Approximately 10 thousand children were members of street gangs. NGOs dealing with gangs and other youth reported concerns about abusive treatment, including physical assaults, by police of street youth upon apprehension or in custody (see section 1.d.).

The government maintained one shelter each for girls and boys in Guatemala City, providing housing for the homeless. The government devoted insufficient funds to these two youth centers, and governmental authorities often preferred to send juveniles to youth shelters operated by Casa Alianza and other NGOs. The government provided no funding assistance for shelter costs to these NGOs. Juvenile offenders were incarcerated at separate youth detention facilities.

Trafficking in Persons.—While the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country. In February the Congress of the Republic passed legislation which criminalizes all forms of trafficking, expands the definition of persons responsible for trafficking offenses, and mandates jail time for traffickers. The government acknowledged that trafficking was a significant and growing problem in the country.

In March the Public Ministry created an Office of Special Prosecutor for Crimes against Women, Children, and Victims of Trafficking. During the year a task force, which included the Office of the Special Prosecutor, immigration authorities, PNC, and Casa Alianza, conducted 12 bar raids. Although the office opened 45 new cases against traffickers, by year's end it had achieved no convictions specifically for trafficking, but had achieved 6 convictions for the lesser offense of procurement. None of the persons convicted for procurement received jail sentences.

The country cooperated with Mexico on an annual work plan to care for victims and regularize cooperation between the respective government agencies. This cooperation included ensuring that the repatriation of trafficking victims was handled separately from deportations. The country had repatriation agreements for minor victims of trafficking with El Salvador, Nicaragua, Honduras, Costa Rica, and Panama.

The country was a source, transit, and destination country for its own nationals and other Central American women and children trafficked for purposes of sexual exploitation and child labor. One 2004 NGO report identified 600 to 700 minors who were victims of trafficking in centers of prostitution across the country. There were no reliable estimates of forced labor trafficking, mainly involving children used in begging rings in Guatemala City.

Trafficking was particularly a problem in the capital and in towns along the borders with Mexico and El Salvador. Child migrants who did not cross the border into Mexico often remained in the country and resorted to or were forced into prostitution. Many women and children also were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings that forced them into prostitution. The primary target population for sexual exploitation was minor boys and girls or young women from poor families. Traffickers often approached individuals with promises of economic rewards, jobs in cafeterias or beauty parlors, or employment in other countries. The means of promotion included flyers, newspaper advertisements, and verbal or personal recommendations.

Brothel owners often were responsible for transporting and employing victims of trafficking. Traffickers frequently had links to other organized crime, including drug trafficking and migrant smuggling.

There were credible reports that police and immigration service agents were complicit in trafficking of persons. In a 2002 study by the NGO End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes, the most recent available, some minor victims of trafficking reported that immigration officials took bribes from traffickers, gave the victims falsified identification papers, and allowed them to cross borders. There were credible reports that brothel owners allowed police and migration officials to have sex with minor victims without charge. There were no further developments regarding the investigation of former PNC official Rudy Giron Lima's ownership of three bars where underage persons were engaged in prostitution. In May 2004 a court sentenced Giron Lima to 63 years in prison on unrelated kidnapping charges (see section 1.b.).

The Secretariat for Social Welfare, a government institution, operated two shelters, one in Guatemala City and the other in the city of Quetzaltenango that housed victims of trafficking and offered social casework, job training, and counseling.

Immigration officials generally deported adult trafficking victims but did not treat them as criminals. From February to December, immigration officials deported 96 women found during bar raids back to Honduras, Nicaragua, and El Salvador. Victims were not prosecuted and were not required to testify in cases against traffickers.

During the year the government undertook significant efforts to address the problem of trafficking in persons, including increased attention to rescuing minors from commercial sexual exploitation in bars, brothels, and other establishments. The government released minor trafficking victims rescued in bar raids primarily to the custody of Casa Alianza, which provided shelter, medical treatment, psychological counseling, and job training. Other NGOs provided similar services and, along with Casa Alianza, lobbied for legislation, protection of victims, and prevention of trafficking.

Persons with Disabilities.—The law contains no specific prohibitions against discrimination based on physical disability in employment, education, access to health care, or the provision of other state services. The law, however, mandates equal access to public facilities, and provides some other legal protections, such as equal hir-

ing opportunities. In many cases persons with physical and mental disabilities did not enjoy these rights, and the government devoted few resources to combat this problem. A 2004 report by the International Disability Rights Monitor, the most recent available, noted that the government discriminated against persons with disabilities by not providing adequate protection.

There were scant educational resources for those with special needs, and the majority of universities were not made accessible to persons with disabilities. The National Hospital for Mental Health, the principal health care provider for persons with mental illness, lacked basic supplies, equipment, hygienic living conditions, and adequate professional staffing. Although the National Council for the Disabled, composed of representatives of relevant government ministries and agencies, met regularly to discuss initiatives, the government devoted no resources to the implementation of the council's recommendations.

Indigenous People.—Indigenous people from approximately 22 ethnic groups constituted an estimated 43 percent of the population. In addition to the many Mayan communities, there were also the Garifuna, descendants of Africans brought to the Caribbean region as slaves who intermarried with Amerindians, and the indigenous Xinca community. The law provides for equal rights for indigenous people and obliges the government to recognize, respect, and promote their lifestyles, customs, traditions, social organization, and manner of dress. Although some indigenous people attained high positions as judges and government officials, they generally were underrepresented in politics, and remained largely outside the country's political, economic, social, and cultural mainstream due to limited educational opportunities, poverty, and pervasive discrimination.

A 2004 World Bank study, the most recent available, found that 76 percent of the indigenous population lived in poverty, compared with 41 percent of the non-indigenous population.

Rural indigenous persons had limited educational opportunities and fewer employment opportunities. Many of the indigenous were illiterate, and approximately 33 percent did not speak Spanish. More than 50 percent of indigenous women were illiterate; and a disproportionate number of indigenous girls did not attend school (see section 5, Women and Children). According to the most recently available Ministry of Education report, 273,628 preschool and kindergarten aged indigenous children were enrolled in bilingual education programs during 2004. The government devoted less than 10 percent of the total budget to bilingual education. During the year the Population Council reported that indigenous people completed 1.3 years of school on average, compared with 4.2 years for non-indigenous persons.

The Ministry of Labor's Department of Indigenous People, tasked with investigating cases of discrimination, representing indigenous rights, and promoting implementation of ILO Convention 169 on the rights of indigenous people, counseled indigenous persons on their rights. During the year, however, this department had no separate budget, only four employees, and lacked resources to investigate any discrimination claims.

Legally mandated court interpreters for criminal proceedings often were not available, placing indigenous people arrested for crimes at a disadvantage due to their limited comprehension of Spanish (see section 1.e.). There were 63 judges who spoke Mayan languages among the 561 tribunals in the country. There were 62 court interpreters, and the Supreme Court of Justice reported that the judicial system had 689 employees who spoke indigenous languages. In many instances bilingual judicial personnel continued to be assigned to areas where their second language was not spoken. The public defender's Office of Indigenous Defense, which coordinated interpretation and legal assistance in indigenous languages, ran out of funds on July 1. A skeleton staff continued working while the office sought governmental budgetary support, but the government undertook no further interpretation or legal assistance efforts and the future existence of the office was in question at year's end.

Other Societal Abuses and Discrimination.—The law does not criminalize homosexuality, but it also does not expressly include sexual orientation or HIV status among the categories prohibited from discrimination. There was social discrimination against gay, lesbian and transgender persons and persons with HIV/AIDS. Homosexual rights support groups alleged that members of the police regularly waited outside clubs and bars frequented by sexual minorities and demanded that patrons and persons engaged in commercial sexual activities provide protection money. These groups also complained that police at times raped lesbians and transvestites, but that due to a lack of trust in the judicial system and out of fear of further persecution or social recrimination, victims were unwilling to file complaints.

On December 17, transvestite Juan Pablo Mendez Cartagena was shot and killed, and transvestite Kelvin Josue Alegria Robles was seriously injured in Guatemala City by persons that members of the homosexual rights group OASIS alleged were wearing police uniforms. At year's end the matter was under investigation by police authorities.

Section 6. Worker Rights

a. The Right of Association.—While the law provides for freedom of association and the right to form and join trade unions, in practice, enforcement remained weak and ineffective. With the exception of members of the security forces, all workers have the right to form or join unions, but less than 3 percent of the formal sector work force was unionized.

Legal recognition of a new industry-wide union requires that the membership constitute 50 percent plus one of the workers in an industry. In its annual report, the ILO Committee of Experts identified this requirement as among “restrictions on the formation of organizations in full freedom,” and labor rights activists considered this number to be a nearly insurmountable barrier to the formation of new industry-wide unions.

Enforcement of legal prohibitions on retribution for forming unions and for participating in trade union activities was weak. To hold union office, the law requires that a person must be both a citizen of the country and actively employed by the enterprise or economic activity. The ILO Committee of Experts viewed this as a restriction “on the right to elect trade union leaders in full freedom.” Many employers routinely sought to circumvent legal provisions for union organizing by resisting union formation attempts or by ignoring judicial orders to enforce them. An ineffective legal system and inadequate penalties for violations continued to undermine enforcement of the right to form unions and participate in trade union activities.

There were credible reports of retaliation by employers against workers who tried to exercise internationally recognized labor rights. By year's end there were no new developments regarding the status of a 2004 case involving 20 workers dismissed by the Secretariat for Social Welfare while trying to form a public sector union, despite a court order calling for their reinstatement.

Some workers who suffered illegal dismissal took their cases to the labor courts and won injunctions ordering reinstatement. The law requires employers to reinstate workers dismissed illegally for union organizing activities. In practice employers often failed to comply with reinstatement orders. Appeals by employers, along with legal recourse such as re-incorporation as a different entity, often prolonged reinstatement proceedings. The labor courts rarely dismissed frivolous appeals, and did not operate in a timely manner, or ensure enforcement of their decisions. According to labor ministry officials, employers rarely were disciplined for ignoring legally binding court orders.

The annual ILO Committee of Experts report noted “problems relating to the shortcomings in the functioning of justice, and particularly the slowness of procedures and the failure to comply with court orders relating to acts of antiunion discrimination.”

Labor leaders reported receiving death threats and other acts of intimidation. A 3-prosecutor Office of the Special Prosecutor for Crimes Against Unionists and Journalists accepted 42 new union-related cases during the year, thereby raising its total case load to more than 370 (see section 4). During the year prosecutors secured no convictions for crimes against trade unionists and often claimed that they had minimal evidence to prosecute such cases.

During the year the Ministry of Labor granted legal status to 42 new labor unions. Although there were 1,698 legally registered labor unions, fewer than 400 appeared to be active based on administrative register records.

An active solidarity association (*solidarismo*) movement claimed to have approximately 170 thousand members; its advocates claimed that these associations operated in an estimated 400 companies. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between them or to belong to both. The government characterized these associations as civic organizations that need not interfere with the functioning of trade unions. Although the law stipulates that trade unions have an exclusive right to negotiate work conditions on behalf of workers, unions charged that management promoted solidarity associations to avoid the formation of trade unions or to compete with existing labor unions. Representatives of most organized labor groups criticized these associations for their inability to strike, having inadequate grievance procedures, and for displacing genuine, independent trade unions with an employer-dominated structure.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government generally strove to

protect this right in practice. The law requires that union members approve a collective bargaining agreement by simple majority. Although workers had the right to organize and bargain collectively, the small number of unionized workers limited the practice of organizing and bargaining. In its annual report, the ILO Committee of Experts requested that the government “take measures to promote collective bargaining in the country and to ensure that effect is given in practice to concluded collective agreements.”

In a factory or business, 25 percent of the workers must be union members for collective bargaining to take place. Most workers, including those organized in trade unions, did not have collective contracts documenting their wages and working conditions, nor did they have individual contracts as required by law.

According to the Ministry of Labor, there were 65 collective bargaining agreements (covering more than 15 thousand unionized workers and many thousands of non-unionized workers), primarily in the public sector.

Workers have the right to strike, but due to the very low level of unionization and procedural hurdles, there were no legal strikes during the year. The law requires approval by simple majority of a firm’s workers to call a legal strike, and it requires that a labor court consider whether workers are conducting themselves peacefully and have exhausted available mediation before ruling on the legality of a strike. The government did not recognize any legal strikes during the year, although teachers, farm workers, air traffic controllers, and other labor groups held illegal or unofficial work stoppages.

The law empowers the president and his cabinet to suspend any strike deemed “gravely prejudicial to the country’s essential activities and public services,” an authority that the government did not use during the year.

Workers in the essential services and public services sectors can address grievances by means of mediation and arbitration through the Ministry of Labor’s General Inspectorate of Labor and also directly to the labor courts. Employers may suspend or fire workers for absence without leave if authorities have not recognized a strike as legal. The law calls for binding arbitration if no agreement is reached after 30 days of negotiation. The law prohibits employer retaliation against strikers engaged in legal strikes. There were no strikes declared legal during the year.

Labor laws and regulations apply throughout the country, including in the 12 active export processing zones (EPZs) and within the maquiladoras, which operated under an EPZ-like regime, although they were not located in distinctly established areas. By year’s end the number of workers in the maquiladora sector decreased to approximately 80 thousand, due to competition from apparel producers in Asian countries.

There were no special laws or exemptions from regular labor laws in the EPZs. Due to worker mistrust of employers and union organizers, unions had minimal success in organizing workers in EPZs and in the maquiladora sector. While only three enterprises in the maquiladora sector had legally registered unions, one of those enterprises declared bankruptcy on June 10, and closed. The two remaining unionized maquilas had legally registered collective bargaining agreements. In December union organizers in another company reached an agreement with management to establish a union in the workplace. Recognition by the Ministry of Labor was pending at year’s end. Labor leaders and activists asserted that employer intimidation and pressure undermined organizing activities.

c. Prohibition of Forced or Compulsory Labor.—While the law prohibits forced or compulsory labor, including by children, women and increasingly minors were trafficked for the purpose of sexual exploitation (see section 5). There were reports that employers sometimes forced workers to work overtime, often without the premium pay mandated by law (see section 6.e.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the law bars employment of minors under the age of 14 without written permission from parents or the Ministry of Labor, child labor was a widespread problem. The law prohibits minors from work in establishments where alcoholic beverages are served, from work in unhealthy or dangerous conditions, and from night work and overtime work (the legal workday for persons younger than 14 is 6 hours, and for persons 14 to 17 years of age, 7 hours.). Despite these protections, child laborers worked on average in excess of 45 hours per week.

The informal and agricultural sectors regularly employed children below 14 years of age, usually in small family enterprises. Economic necessity forced most families to have their children work to supplement family income, particularly in rural and indigenous communities.

Laws governing the employment of minors were not enforced effectively. The vast majority of incidents of child labor cases occurred in the informal sector. The situa-

tion was exacerbated by the weakness of the labor inspection and labor court systems, and because the law provides that parental consent alone is sufficient to permit a child to work.

The ILO's International Program on the Elimination of Child Labor (IPEC) continued to operate programs in the country to deal with commercial sexual exploitation of children, child labor in commercial agriculture, children working in garbage dumps, and child labor in quarries. An IPEC project to address child labor in fireworks production closed in August. The labor ministry estimated that approximately three thousand children were employed in the illegal and very hazardous cottage-based fireworks production industry. In its annual report, the ILO Committee of Experts requested that the government adopt necessary measures to guarantee that no person under 18 years of age would be employed in the hazardous fireworks industry.

The ILO Committee of Experts noted also with regard to worst forms of child labor that, in relation to the commercial sexual exploitation of children in the country, legislation was inadequate, cases involving sexually exploited children often were not investigated and prosecuted, and there were no effective rehabilitation programs available (see section 5).

The Child Worker Protection Unit within the Ministry of Labor is charged with enforcing restrictions on child labor and educating minors, their parents, and employers on the rights of minors in the labor market.

The government devoted insufficient resources to prevention programs but Guatemala City's municipal administration managed several small programs that offered scholarships and free meals during the year to encourage families to send to school children who had formerly worked in the broccoli, coffee, gravel, and fireworks industries.

e. Acceptable Conditions of Work.—The law sets national minimum wages for agricultural and non-agricultural work. In December President Berger ordered a 10 percent increase in the legal minimum wage after the National Salary Committee failed to achieve consensus. The new daily minimum wage was \$5.66 (42.46 quetzales) in agriculture and \$5.82 (43.64 quetzales) in non-agricultural work. In addition to the increase in base minimum wage, the president also increased the mandatory monthly incentive bonus for salaried employees from \$14.66 (110 quetzales) to \$33.33 (250 quetzales), effectively raising the minimum wage to \$7.17 (53.8 quetzales) per day for agricultural work and \$7.33 (55 quetzales) for non-agricultural work.

The minimum wage did not provide a decent standard of living for a worker and family. The Guatemalan National Statistics Institute calculated that the minimum food budget for a family of 4 was \$202 (1,515 quetzales) per month, significantly above the \$161 (1,210 quetzales) per month that could be earned at the non-agricultural minimum wage rate. The institute's estimate of a family's total needs, including housing, clothing, utilities, and health care was \$369 (2,765 quetzales). Labor representatives noted that even where both parents worked, the minimum wage did not allow the family to meet its basic needs.

Noncompliance with minimum wage provisions in the informal sector was widespread. The Ministry of Labor conducted inspections to monitor compliance with minimum wage provisions, but the government allocated inadequate resources to enable inspectors to enforce the minimum wage law adequately, especially in the very large informal sector. Advocacy groups, focused on rural sector issues estimated that more than half of workers in rural areas who engaged in day-long employment did not receive the wages, benefits, and social security allocations required by law.

A study by the Center of National Economic Research, conducted in 2004 and again in the current year, reported that 75 percent of the workforce operated in the informal sector, and therefore outside of the basic protections, including minimum wage, afforded by the law.

The legal workweek is 48 hours with at least one paid 24-hour rest period, although in certain economic sectors, workers continued to operate under a tradition of longer work hours. Daily and weekly maximum hour limits did not apply to domestic workers. Time-and-a-half pay was required for overtime work. Although the law prohibits excessive compulsory overtime, trade union leaders and human rights groups charged that employers sometimes forced workers to work overtime without legally-mandated premium pay. Labor inspectors reported uncovering numerous instances of overtime abuses, but effective enforcement was undermined due to inadequate fines, and inefficiencies in the labor court system.

In March labor courts re-assumed responsibility for sanctioning employers found violating labor laws. This responsibility had been taken away from labor inspectors by a 2004 Constitutional Court decision. During the year the labor courts received 1,187 cases from the labor inspectorate, but resolved only 138.

The government sets occupational health and safety standards, which were inadequate and poorly enforced. When serious or fatal industrial accidents occurred, the authorities often failed to investigate fully or assign responsibility for negligence. Employers rarely were sanctioned for failing to provide a safe workplace. Legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers was not enforced. Workers have the legal right to remove themselves from dangerous work situations without reprisal; however, few workers were willing to jeopardize their jobs by complaining about unsafe working conditions.

GUYANA

The Co-operative Republic of Guyana is a multiparty democracy with a population of approximately 750 thousand. The president appoints a prime minister and a cabinet. In 2001 citizens voted in generally free and fair national elections to reelect the People's Progressive Party Civic (PPP/C) and President Bharat Jagdeo. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in some areas:

- unlawful killings by police
- police abuse of suspects
- poor prison and jail conditions
- lengthy pretrial detention
- severe inefficiencies in the judicial system
- warrantless searches of homes and vehicles
- government interference in the media
- violence against women and children
- trafficking in persons
- discrimination against indigenous people

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—While the government or its agents did not commit any politically motivated killings, the nongovernmental organization (NGO) Guyana Human Rights Association (GHRA) and the media asserted that police continued to commit unlawful killings. In most cases the police shot the victims while attempting to arrest them or while a crime was being committed. Although police seldom were prosecuted for unlawful killings, the new police commissioner brought charges against officers implicated in such abuses and instigated greater efforts to investigate and hold police officers accountable. The constitution broadly defines justifiable use of lethal force.

On January 13, police shot and killed murder suspect Simeon Hope in his house. Press accounts stated that witnesses said police ordered other occupants out of the house before firing. The Police Complaints Authority (PCA) recommended a coroner's inquest, but it had not commenced by year's end.

On July 13, police accidentally shot Eon Forrester, who was in custody at the East La Penitence police station, when a scuffle broke out between a policeman and another man in custody. Forrester died at the hospital. The director of public prosecutions (DPP) upheld a PCA recommendation to charge the policeman with manslaughter, and he was awaiting trial at year's end.

On July 16, a policeman shot and killed Dwight McKenzie and Eon Allyn while both were on a motorcycle. According to police the two men matched the description of burglars; they took evasive action and began firing at the police. Eyewitnesses told the press that the men were evading the police but not firing, and that one officer exited the police vehicle firing rounds into the air. When the men did not stop, another officer fired four rounds directly at them. The PCA recommended a coroner's inquest, but no action had been taken by year's end.

On November 12, a policeman shot and killed Carl Abrams, who was sitting by a fence near his home. The policeman claimed that he had returned Abrams' fire, but further investigation found that only one shot was fired. The DPP upheld the PCA's recommendation to charge the policeman with murder. At year's end the policeman was in custody awaiting trial.

In 2004 an informant alleged that Minister of Home Affairs Ronald Gajraj was involved in directing an extrajudicial killing squad. In May a Presidential Commission of Inquiry cleared Gajraj of involvement in promoting, directing, or otherwise engaging in activities involving the squad. However, circumstantial evidence pointed to the contrary, and the commission's work was hindered by witnesses mysteriously dying or refusing to testify. Gajraj admitted to interactions with some members of the killing squad. Upon the release of the report, Gajraj was reinstated but subsequently resigned his position due to international pressure.

There were no developments in the allegations of wrongdoing in police killings in previous years, including the 2004 shootings of Sherman George, Curtis Lorenzo, and Kelvin Nero.

Of the two police officers charged with killing University of Guyana student Yohance Douglas in 2003, one was released due to lack of evidence. On December 16, a High Court jury found the second policeman guilty of manslaughter, but he appealed the verdict on the grounds that the judge misled the jury.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits torture, and there no reports of its use, allegations of police abuse of suspects continued. The PCA received 61 complaints of unlawful arrest and 3 of unnecessary use of violence during the year.

On November 11, police held 3 women and their 4 children for 10 hours in a filthy holding cell at a police station. The women claimed that they were not allowed to respond to the allegation of disorderly behavior made against them. A magistrate dismissed the case against them on November 16.

Various groups commended the police commissioner for his efforts to pursue and discipline officers accused of abuse. The police commissioner instituted training and worked closely with the PCA and DPP to investigate complaints of improper police behavior and punish those found culpable. However, there were numerous indications that the government did not take human rights seriously and believed that the police force's concern for human rights was affecting the force's crime-fighting ability.

In May a former female inmate at the New Opportunity Corps (NOC), a correctional facility for juvenile delinquents, filed a complaint of sexual abuse against staff members. The Guyana Police Force (GPF), Ministry of Human Services, and the Ministry of Culture, Youth, and Sport investigated; in June authorities charged three male counselors with rape. They were released on bail and awaited trial at year's end.

Prison and Detention Center Conditions.—Prison and jail conditions were poor, particularly in police holding cells. However, the GHRA stated that "prisons have improved immeasurably in the last decade" and met minimum international standards. The Prison Authority reported that there were 1,485 prisoners in 5 facilities, nearly half of whom were in Georgetown's Camp Street Prison, the country's largest. That prison, expanded to hold 500 inmates, held an average of 700 prisoners during the year, far below the 1 thousand it used to hold.

Conditions in the country's four smaller prisons generally were adequate. Some prisons officers received basic medical training, but there was no doctor to perform regular visits at any of the prisons. The prison system faced issues of staffing constraints and lack of resources. However, attempts were made to give all prison officers human rights training, and the senior level management of the Prison Service made serious efforts to combat cruel, inhuman, or degrading treatment in the prisons. The GHRA did not consider mistreatment of prisoners a problem in the prison system.

Although sanitary and medical conditions in police holding facilities varied, these conditions were worse than those in the prisons. Some jails were bare, overcrowded, and damp. Few had beds, washbasins, furniture, or utensils. Meals normally were inadequate; friends and relatives routinely had to bring detainees food and water. Cells rarely had sanitary facilities, and staff members sometimes escorted inmates outside the cells to use holes in the floor for toilets. Inmates generally slept on a thin pallet on the concrete floor. Although precinct jails were intended to serve only as pretrial holding areas, some suspects were detained there as long as two years, waiting for the overburdened judicial system to act on their cases.

Unlike previous years, there were no reports that prisoners died while in police custody.

Juvenile offenders aged 16 and older were placed in the adult prison population. Juvenile offenders aged 15 and younger were held in the NOC, which originally was conceived as a training and rehabilitation facility rather than a juvenile detention center. There were complaints that juvenile runaways or those out of their guard-

ians' care were placed with juveniles who had committed crimes. The NOC facility had multiple problems including staffing capacity and capabilities.

Since there were no facilities in Georgetown to house female offenders aged 16 and over, women awaiting trial were held in the same facilities as men. The Prison Authority reported that there were 69 female inmates in the women's prison located in New Amsterdam.

The government permitted independent monitoring of prison conditions, but there were no known requests to conduct such monitoring during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The GPF maintains internal security. It consists of three thousand members and is headed by the commissioner of police. The minister of home affairs oversees the GPF. The Guyana Defense Force (GDF) is responsible for defending the country's territorial integrity, assisting civil authorities to maintain law and order, and contributing to economic development. The GDF consists of 2,500 troops and is headed by the chief of staff. The GDF falls under the purview of the minister of defense, whose portfolio was held by the president, and the Defense Board.

Poor training, poor equipment, and acute budgetary constraints severely limited the effectiveness of the GPF. Public confidence and cooperation with the police remained extremely low. There were reports of corruption in the force, especially in the lower ranks. Since taking office in 2004, the commissioner of police made it a priority to address corruption and lack of police accountability. Most cases involving charges against police officers were heard by lower magistrate's courts, where other specially trained police officers served as the prosecutors. The Bar Association questioned officers' commitment to prosecute their own colleagues and recommended that the DPP should handle prosecution of serious cases.

The chairman of the PCA, a former chancellor of the judiciary, made serious efforts to turn the PCA into a credible working body. When a complaint is received and investigated, a report and relevant statements are sent to the chairman and a two-person panel for review. By law the police commissioner must comply with the PCA's recommendation on complaints. In August, frustrated with hundreds of cases still awaiting police reports, the chairman wrote to the commissioner, and within days the commissioner provided more than 82 files.

The PCA received 269 written complaints during the year, of which 11 involved police killings. Investigation into these killings led to three charges against police officers and eight recommendations for inquests. The remaining 258 complaints were mostly for police neglecting their duties or misbehaving in public places, unlawful arrest, wrongful seizure of firearms or motor vehicles, corrupt transactions, and unnecessary use of force. At year's end 101 reports remained outstanding, and the other 157 complaints had been investigated and dealt with by the police force or rejected by the PCA.

The GPF included a basic human rights course in its recruit-training program and held a week-long human rights training seminar in September, sponsored by the GHRA and the UN Development Program.

Arrest and Detention.—An arrest requires a warrant issued by a court official, unless an officer witnesses a crime, or at the officer's discretion in instances where there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 72 hours be brought before a court to be charged, and this was generally observed in practice. Bail was generally available, except in capital offenses and narcotics trafficking cases. Although narcotics trafficking was not aailable offense, some magistrates granted bail to drug defendants.

Although the law provides criminal detainees prompt access to a lawyer of their choice, as well as access to family members, in practice these rights were not fully respected. Police routinely required permission from the senior investigating officer, who was seldom on the premises, before permitting counsel access to a client. There were reports that senior officers refused to grant prompt access to prisoners.

The government did not detain persons on political grounds, although supporters of Mark Benschop, a talk show host arrested on charges of treason in 2002, considered him to be a political detainee. In 2004 his trial concluded with a hung jury that voted 11 to 1 for acquittal. Although the judge's summation to the jury indicated that there was no evidence that the accused had intent to overthrow the government, the judge scheduled Benschop for retrial. In December he sued the attorney general over his continued incarceration without bail and the High Court's delay in hearing his case a second time; he remained in jail at year's end.

Lengthy pretrial detention, due primarily to judicial inefficiency, staff shortages, and lengthy legal procedures remained a problem, despite the chief justice's efforts to have the courts deal more quickly with inmates on remand. Pretrial detainees made up approximately one-third of the prison population, and the average length of pretrial detention was 18 to 20 months.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary and the government generally respected this provision in practice, some law enforcement officials, prominent lawyers, and others accused the government of occasional judicial intervention. The general perception was that the judiciary was influenced by the executive, and that corruption existed at the magistrate level.

Delays and inefficiencies in the judicial process undermined due process. Delays in judicial proceeding were caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional allegations of bribery, poor tracking of cases, and the slowness of police in preparing cases for trial. The delays resulted in a backlog of more than 10 thousand cases, some dating back 10 years.

The court system is composed of magistrate's courts, the High Court, and the Court of Appeals. There is also the right of final appeal to the new Caribbean Court of Justice. The magistrate's courts deal with both criminal and civil matters. Specially trained police officers serve as prosecutors in lower magistrate's courts. The DPP is statutorily independent, may file legal charges against offenders, and handles all criminal cases.

The Judicial Services Commission (JSC) has the authority to appoint judges, determine tenure, and appoint the DPP and his deputy. The president, on the advice of the JSC, may temporarily appoint judges to sit in magistrate's courts and on the High Court.

Trial Procedures.—Defendants have public trials, and appeals may be made to higher courts. Defendants are presumed innocent until found guilty. Cases in magistrate's courts are tried without jury; more serious cases are tried by jury in the High Court. Appeals of some murder cases may continue for several years. Trial postponements were granted routinely to both the defense and the prosecution. Programs designed to improve legal structures, reform judicial procedures, upgrade technical capabilities, and improve efficiency of the courts had a limited effect.

Although the law recognizes the right to legal counsel, in practice, with the exception of cases involving capital crimes, it was limited to those who could afford to pay. There is no public defender system; however, a defendant in a murder case received a court-appointed attorney if the case reached the High Court.

The Georgetown Legal Aid Clinic, with government and private support, provided advice to persons who could not afford a lawyer, particularly victims of domestic violence and violence against women.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—While the law prohibits such actions, authorities sometimes infringed on citizens' privacy. Law enforcement officials must obtain warrants before searching private homes or properties. Although the authorities generally respected these requirements, there were reports that police officers searched homes without warrants, particularly in the village of Buxton, a criminal enclave, and in neighborhoods where narcotics trafficking was suspected.

In October a joint GPF/GDF operation in Buxton searched 350 homes and arrested 112 persons, including 3 wanted men. Police released all but the wanted men, and the sweeps did not turn up arms or ammunition. The GHRA condemned the operation, asserting that law-abiding citizens of Buxton were being unduly harassed. The GHRA also noted that the operation took place just weeks after President Jagdeo stated that the police "are more concerned with human rights groups than with victims". The police commissioner denied that the operation was designed to appease Jagdeo's frustration.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, there were some exceptions.

The independent media were active and expressed a wide variety of views without restriction. International media were allowed to operate freely. The government's daily newspaper, the *Guyana Chronicle*, which typically displayed a progovernment bias, covered a broad spectrum of political and nongovernmental groups.

There were reports of prior restraint of media reporting. Guyflag, an insurance company accused of a major insurance fraud, filed two legal actions against the

Stabroek News after the newspaper published an analysis of the company's annual report. A court granted the firm an injunction restraining further publication of certain parts of that article "or any similar words." The matter was still before the court at year's end.

Government limits on licensing and expansion constrained the broadcast media. The government owned and operated the radio stations, which are the only media that reach the entire country. Private interests and the political opposition continued to criticize the government for its failure to approve long-standing requests for private radio frequency authorizations. The government stated that no new radio or television licenses would be granted, nor any extensions of broadcast service approved, pending passage of a new broadcast law, a draft of which had not yet been tabled in parliament. Nonetheless, the national television station continued to expand its service. Twenty-one independent television stations also operated throughout the country.

Equitable access to the state media remained a contentious issue between the government and the major opposition parties and grew more heated prior to an election year.

On January 22, in the wake of devastating floods along most of the coastal area, the prime minister suspended the operating license of CNS Channel 6 for one month. The suspension responded to programs hosted by the station's proprietor, the leader of an opposition political party, which the government claimed misrepresented the situation by portraying the government as insensitive to the suffering and losses caused by the flooding. Authorities took the station off the air, and police seized broadcasting equipment. The proprietor's attempts to continue broadcasting in defiance of the suspension were repeatedly blocked due to cuts in electricity to his studio. The proprietor filed a motion in the High Court to lift the suspension, but when the case went before the court, it resulted in a deadlock. The station returned to the air after the 1-month suspension.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for the freedom of religion, and the government generally respected this right in practice.

While the government recognizes religious groups of all faiths, churches were required to register with the government to be formally recognized. Foreign religious groups seeking to establish operations require permission from the Ministry of Home Affairs before commencing their activities.

According to the Amerindian Act, religious groups seeking access to Amerindian villages are required to obtain special permission from the minister of Amerindian affairs. The minister reviews the scope of activities submitted by the religious body and grants approval on a case-by-case basis.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There was a very small Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

Travel to Amerindian areas required government permission, the result of a law dating from 1951. However, in practice most persons traveled throughout these areas without a permit.

The law prohibits forced exile, and it was not used.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system to protect refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. There is a multiparty political system based on proportional representation, and the party that wins the most votes for parliament wins the presidency. The president appoints a cabinet and prime minister who, with the president, exercise executive power.

Elections and Political Participation.—In 2001 citizens voted in a generally free and fair election to keep the PPP/C in office, defeating the Peoples National Congress Reform (PNC/R), which is the main opposition party. Incumbent Bharrat Jagdeo remained the PPP/C's presidential candidate and was re-elected to a 5-year term. More than 165 international observers deemed the elections free and fair, according to international standards.

In 2003 the president and the leader of the opposition established a bipartisan task force to reform the local government system, which completed its work in 2004 and submitted its report to both leaders. The report left two issues outstanding—fiscal decentralization and the structure of the electoral system for local elections. The task force has not reconvened, and the report was not implemented due to a stalemate between the two major political parties. Local government elections, last held in 1994, were delayed pending completion of the reform and in order not to conflict with national elections scheduled for mid-2006.

The constitution contains language that allows the Guyana Elections Commission (GECOM) to determine what forms of identification to require for a voter to prove his identity. In past elections losing parties claimed that rivals had registered non-existent voters by questionable means, such as oaths of identity. In October GECOM opened a continuous registration process for the 2006 elections. To control the registration process more tightly (so the political parties are satisfied the voter's list is not padded), GECOM included a new requirement that new registrants present a birth certificate or passport as proof of age and citizenship. There was concern that this new requirement might disenfranchise persons who did not have such documents.

While supporters of the two major parties (the PPP/C and the PNC/R) were drawn largely from the Indo-Guyanese and Afro-Guyanese communities respectively, political party leadership was more diverse. The cabinet was also ethnically diverse. Four of 19 cabinet ministers were Afro-Guyanese, including the prime minister and the head of the presidential secretariat. There were two cabinet ministers of Portuguese descent and one Amerindian. The cabinet also included four women.

There were 20 women and 4 Amerindians in the 65-seat parliament. The constitution requires that one-third of each party's list of parliamentary candidates be female, but a party can meet that requirement and then not select any women for parliamentary seats. Nonetheless, almost one-third of parliamentarians were female.

Government Corruption and Transparency.—There was a widespread public perception of corruption in the government, including law enforcement and the judicial system. Low wage public servants were easy targets for bribery.

The law does not provide for public access to government information. Government officials were reluctant to provide public information without approval from senior levels of the administration.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials somewhat were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

While the constitution provides fundamental rights for all persons regardless of race, gender, religion, or national origin, the government did not always enforce these provisions.

Women.—Violence against women, including domestic violence, was widespread and crossed racial and socio-economic lines. The law prohibits domestic violence, gives women the right to seek prompt protection, and allows victims to seek protection, occupation, or tenancy orders from a magistrate. Penalties for violation of protection orders include fines up to \$54 (G\$10 thousand) and 12 months' imprisonment; however, this legislation frequently was not enforced.

According to the NGO Help and Shelter, the government used laws against domestic violence with some measure of success; the problems lay with the failure of those responsible for implementation. Help and Shelter said that all magistrates and magistrate's court staff needed to be more sensitive to the problem of domestic violence and to their roles in ensuring implementation of the law. In addition not all police officers fully understood provisions of the law.

Between January and September, Help and Shelter handled 312 abuse cases, including child, spousal, nonspousal, and other domestic abuse; 215 of the cases involved spousal abuse directed against women.

GHRH noted that women lacked protection against sexual and physical exploitation and abuse and said that institutional resistance in all sectors, including law enforcement, the judiciary, and the legal profession seriously contributed to the increase in violence against women.

NGOs trained police officers, teachers, nurses, agricultural workers, religious groups, and health clinics to sensitize them to domestic violence. Domestic violence training was part of the curriculum of the Police Training College. Help and Shelter operated a hot line to counsel victims. There is a Task Force on Violence against Women whose membership included NGOs, representatives from law enforcement, the health community, and youth. The task force conducted research and analysis on ways to better combat violence against women.

Although rape, including spousal rape, is illegal, it was a serious but infrequently reported or prosecuted problem. While increasing numbers of victims reported these crimes to the authorities, victims were socially stigmatized. A judge has discretion to issue a sentence of any length in a rape conviction, depending upon the circumstances and severity of the act committed. The established trend appeared to be a sentence of 5 to 10 years in prison.

By the end of July, official records from all magisterial districts recorded 50 rape charges. However, the chief probation and family welfare officer stated that a realistic figure likely was double the official one because victims were reluctant to file charges or report cases. Statistics showed that in more than 70 percent of sexual assault cases, the victim was under the age of 18. According to a study released by GHRH, there were only 9 convictions from 647 rape reports for the period 2000–04. The study described “unreconstructed chauvinism” of the country's legal culture as one of the biggest obstacles in delivering justice for victims.

Prostitution is illegal but widespread, and it received greater public attention due to the high incidence of HIV/AIDS among prostitutes and increased attention to trafficking in persons.

Although the law prohibits discrimination based on gender, there was no legal protection against sexual harassment in the workplace. Officials of the Women's Leadership Institute (WLI), a collaborative effort between the government and the UN Development Program, asserted that sexual harassment was a significant problem. WLI reported that while the problem is widespread, victims were reluctant to make official reports, due to fear of the associated stigma and a lack of confidence in the legal system to deliver justice promptly.

Although women constituted a significant proportion of the workforce, there were credible reports that they were not equally treated and faced disadvantages in promotion. The Women's Affairs Bureau of the Ministry of Labor monitored the legal rights of women, but its role was limited to employment-related services.

The law protects women's property rights in common-law marriages and entitles a woman who separates or divorces to one-half the couple's property if she had been working and one-third of the property if she had not been employed. The courts may overturn a husband's will if it does not provide for his wife, as long as she was dependent on him financially.

Children.—The government generally was committed to children's rights and welfare, and in August the cabinet began its review of a draft Family Bill, under preparation since 1995. The bill was divided into five separate pieces of legislation: The Protection of the Children Bill, the Status of the Children Bill, Adoption of the Children Bill, the Child Care and Development Services Bill and the Custody, Access, Guardianship and Maintenance Bill.

Public education was available to age 20. Education was compulsory until age 16, universal, and free through secondary school. Children often did not attend school because their families needed them to contribute to the household by working or providing child care to siblings or younger relatives. According to 2004 statistics, primary school attendance was 87 percent, although only 50 percent of the children completed secondary education. Schools suffered from high attrition rates of trained and experienced teachers, gross understaffing with a high proportion of untrained and underqualified teachers, and very poor infrastructure. The severe deterioration of the public education system limited children's future prospects.

In February the Ministry of Labor, Human Services, and Social Security, the UN Children's Fund (UNICEF), and the NGO Red Thread released a report entitled "*Voices of Children: Experiences with Violence*," which studied the impact of violence on the lives of children. The study found that children are most at risk in their own environments and with people they consider friends or family rather than from criminals or strangers. Some violence endured by children could be traced to common practices and beliefs within the country. The report noted cases of "serious sexual violence perpetrated by older children against younger children in institutions. In each case the perpetrator remained in the same institution even when the abuse had been reported to caregivers."

The age of criminal responsibility is 10, although children usually were not prosecuted as adults, and offenders were sent to the NOC (see section 1.c.).

In October a new law raised the age of sexual consent from 13 to 16. Minister of Labor Dale Bisnauth told parliament that this law did not deal with sexual offenses, but merely addressed the issue of statutory rape. Under the law anyone who has carnal knowledge of a girl under the age of 16 can be found guilty of a felony and imprisoned for life.

There was continued concern over the effects of domestic violence on children. It was unclear how many deaths from child abuse took place; law enforcement officials believed that the vast majority of criminal child abuse cases were underreported. Reports of physical and sexual abuse of children were common. In December the Ministry of Labor, Human Services, and Social Security established a database called the Child Protection Monitoring System to track all reported cases of violence, abuse and neglect of children. The intent was to have all NGOs and law enforcement agencies able to feed information into a comprehensive database. The ministry received assistance from UNICEF.

There were reports of child prostitution (see section 5, Trafficking).

Trafficking in Persons.—The 2004 Combating of Trafficking in Persons Act prohibits all forms of trafficking in persons, but there were reports that persons were trafficked to, from, or within the country. Penalties include three years' to life imprisonment, forfeiture of property, and full restitution to the victims.

There was a National Plan of Action to combat human trafficking, and the deputy commissioner of police monitored enforcement.

The government continued to make progress in its efforts to combat trafficking in persons. In October authorities charged a businesswoman from Port Kaituma with trafficking in persons for allegedly forcing two 15-year-old girls to work as prostitutes. The acting magistrate denied the woman bail and remanded her to prison until her next court appearance. Also in October authorities charged a businessman and two employees with trafficking two teenage girls.

In December 2004 the GPF cooperated with the Suriname Police Corps on a joint investigation that led to the arrest of a Surinamese deputy district commissioner for trafficking four Guyanese women, aged 14 to 27, from Guyana to Suriname and forcing them to work as prostitutes in his brothel.

The country was a source and destination for trafficked women and children, although most trafficking in persons occurred internally. Trafficking reportedly took place in the interior, where there was little government oversight and law enforcement was lacking. Most trafficking originated in impoverished Amerindian communities, although some victims came from the larger coastal cities. Some women trafficked into the country came from the northern regions of neighboring Brazil. Some were trafficked specifically to work in the timber industry. A smaller number of women were trafficked into Suriname's sex trade. The majority of trafficked women and children were lured to mining camps deep in the interior beyond the reach of law enforcement. Reports indicated that trafficking victims were promised employment as highly paid domestic helpers, cooks, restaurant servers, and nude dancers. The victims were provided with barracks-style housing with cramped quarters and sometimes were locked inside. They were restrained through debt-bondage, intimidation, and physical abuse. Most victims were exposed to the same health risks as prostitutes and other victims of sexual exploitation, including sexually transmitted diseases such as HIV/AIDS.

Most traffickers were believed to be individual businessmen or small groups of miners. There was no evidence that government officials or institutions participated in or condoned human trafficking. Although police corruption continued, there were no reports of any cases of police corruption linked to human trafficking.

The government did not attempt to punish or prosecute victims. Victims identified by the government were removed from the traffickers' custody and provided passage back to their homes. There were no reports of societal discrimination against trafficking victims.

The government also worked closely with and provided support for the NGOs Help and Shelter and Red Thread that dealt with trafficking. The government provided \$25 thousand (G\$5 million) to renovate Help and Shelter's physical facility to provide shelter to trafficking victims. The government worked to develop a formal procedure to provide short- and long-term care to victims, including medical attention, housing, and repatriation allowances to victims, prior to their return home.

Beginning in June the government held monthly educational seminars attended by more than 200 people throughout the country. The seminars focused on educating community members about human trafficking and teaching attendees how to report human trafficking activities to the appropriate authorities.

Persons with Disabilities.—The constitution says “the state shall, for the purpose of promoting equality, take legislative and other measures designed to protect disadvantaged persons and persons with disabilities,” but there is no implementing legislation allowing such a person to fight a discriminatory act. There is no law mandating provision of access for persons with disabilities, and the lack of appropriate infrastructure to provide access to both public and private facilities made it very difficult for persons with disabilities to be employed outside their homes. The National Commission on Disabilities (NCD) drafted legislation to protect people with disabilities, which underwent public consultations throughout the country. From August to October, the NCD conducted a survey of 1,500 persons with disabilities across four regions. The survey generated information about the nature of disabilities in order to inform policy, intervention, and plan services. A few independent organizations dealing with specific disabilities existed, such as a society for the visually impaired. The Open Door Center offered assistance and training to persons with disabilities and functioned throughout the year.

National/Racial/Ethnic Minorities.—Longstanding ethnic tensions, primarily between citizens of African descent and those of South Asian origin continued to influence society and political life. Racial grouping of social and political organizations polarized society along ethnic lines, and discrimination and exclusion continued to occur. A few politicians and media personalities engaged in rhetorical and propaganda attacks that fueled racial tensions.

Indigenous People.—According to the 2002 census, the Amerindian population constituted 9 percent of the population. There were 9 tribal groups, and 90 percent of Amerindian communities were in the remote interior. Their standard of living was lower than that of most citizens, and they had limited ability to participate in decisions affecting their lands, cultures, traditions, and allocation of natural resources. Access to education and health care in Amerindian communities was limited, but the government worked to improve these services. All Amerindian communities had primary schools, and there were eight secondary schools in the hinterland regions. The secondary schools had dormitories that housed approximately 800 students at the government's expense. The government also offered scholarships for 300 Amerindian children to attend secondary school in Georgetown. The government established programs to train health workers, and health huts were established in most communities.

The Amerindian Act regulates Amerindian life. Under the act the government may determine who is an Amerindian and what constitutes an Amerindian community, appoint Amerindian leaders, and annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian may accept formal employment, but these provisions were not enforced.

For the Amerindian population, land rights were a major issue. Amerindians complained that the government allocated land (to mining and logging interests as well as for environmentally protected reserves) without proper consultations with them. The Amerindian communities often viewed these allocations as illegitimate seizure of “their” lands and complained that consultations on development in the interior did not provide adequate time for feedback.

The government accepted 46 of the 74 recommendations presented during national consultations on a new Amerindian bill and tabled it in parliament in August. In October parliament sent the bill to a select committee. Many Amerindian groups, NGOs, and the parliamentary opposition parties opposed the new bill. The three largest NGOs—the Amerindian People's Association, the Amerindian Action Movement of Guyana, and the Guyana Organization of Indigenous People—advocated complete withdrawal of the bill from consideration. The main issues of contention were inadequacy of rights to land and resources, use of the term “Amerindian” rather than “Indigenous”, the number of powers conferred upon the minister of Amerindian affairs, and the lack of autonomy given to community governing institutions.

Section 6. Worker Rights

a. The Right of Association.—The constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions, and workers exercised this right in practice. However, the constitution also specifically bars GPF members from unionizing or associating with any established union. Approximately 32 percent of the work force was unionized.

There is no law prohibiting antiunion discrimination by employers. Although not always in harmony with specific unions, the country's socialist history continued to ensure that the government maintained a generally pro-union stance.

b. The Right to Organize and Bargain Collectively.—Public and private sector employees possessed and utilized the right to organize and to bargain collectively. The Ministry of Labor certified all collective bargaining agreements, and there were no reports that it refused to do so. Individual unions directly negotiate collective bargaining status. The chief labor officer and the staff of the Ministry of Labor provided consultation, enforcement, and conciliation services.

The law provides workers with the right to strike, and workers exercised this right in practice. Strikes may be declared illegal if the union leadership did not approve them or if they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeleton staff in place, but they are required to engage in compulsory arbitration to bring an end to a strike. There is no law prohibiting retaliation against strikers, but this principle always was included in the terms of resumption after a strike. The law defines and places limits on the retaliatory actions employers may take against strikers.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the law sets minimum age requirements for employment of children, child labor in the informal sector was a problem, and it was common to see very young children engaged in street trading in the capital. Legally, no person under age 14 may be employed in any industry, and no person under age 16 may be employed at night, except under regulated circumstances. The law permits children under age 14 to be employed only in enterprises in which members of the same family are employed.

According to the 2001 UNICEF-sponsored Multiple Indicator Cluster Survey, 27 percent of children between the ages of 5 and 14 were economically active. The majority of children started working between the ages of 10 and 14. Approximately 45 percent of children worked in the interior regions. The report indicated that most children were not involved in the worst forms of child labor, and estimated that 3 percent of the children were involved in commercial sexual activity. Teenage prostitution was a problem (see section 5).

In July the Ministry of Labor, Human Services, and Social Security and the International Labor Organization (ILO) held a 1-day seminar on the prevention and eradication of child labor. The ILO initiated activities as part of its International Program for Elimination of Child Labor.

While the Ministry of Labor recognized that child labor existed in the informal sector, it did not employ sufficient inspectors to enforce existing laws effectively.

e. Acceptable Conditions of Work.—A civil service arbitration ruling in 1999 established a minimum public sector wage, which has since been increased periodically by unilateral government action to \$109 (G\$22,099) per month. New minimum wages for certain categories of private sector workers took effect on September 1, starting with a minimum of \$16 (G\$3,300) per week. Affected occupations include retail cashiers and clerks, printers, drivers, and conductors. Although enforcement mechanisms exist, it was difficult to put them into practice, and unorganized workers, particularly women and children in the informal private sector, often were paid less than what was required legally in the service sector. Laborers and untrained teachers at public schools also were paid less than the minimum wage. The legal minimum wage did not provide a decent standard of living for a worker and family.

The law sets hours of employment, which vary by industry and sector. In general work in excess of a 44-hour workweek required an overtime payment rate. The law does not require a minimum weekly rest period but does state that a person cannot be compelled to work overtime.

The law also establishes workplace safety and health standards. The Occupational Health and Safety Division of the Ministry of Labor is charged with conducting factory inspections and investigating complaints of substandard workplace conditions. As with its other responsibilities, inadequate resources prevented the ministry from

effectively carrying out this function. Workers could not remove themselves from dangerous work situations without jeopardizing continued employment.

HAITI

Haiti is a republic with a constitution that calls for an elected president and a bicameral legislature. Its population is approximately 8 million. After then President Jean Bertrand Aristide resigned and departed the country in February 2004, Boniface Alexandre, chief justice of the Supreme Court, assumed office as interim president in accordance with the constitution. In March 2004 Gerard Latortue was installed as prime minister of the Interim Government of Haiti (IGOH) upon recommendation from a Council of Eminent Persons to President Alexandre. The IGOH's primary mission was to act as a government of unity following Aristide's departure and to create an environment favorable for presidential and parliamentary elections, which were eventually scheduled for February 2006. While civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority.

In April 2004 the UN Security Council authorized 6,700 troops and 1,622 civilian police for the UN Stabilization Mission in Haiti (MINUSTAH). MINUSTAH security forces faced increased security challenges throughout the year, and in June the Security Council passed a resolution increasing the number of military troops and civilian police. MINUSTAH concentrated on providing security in advance of the scheduled elections.

The government's human rights record remained poor. Systematic state-orchestrated abuses stopped under the IGOH, but retribution killings and politically motivated violence continued throughout the country. Various actors perpetrated numerous human rights abuses during the year, and the following human rights problems were reported:

- arbitrary killings by the Haitian National Police (HNP)
- disappearances committed by the HNP
- overcrowding and poor sanitation in prisons
- prolonged pretrial detention and legal impunity
- use of excessive—and sometimes deadly—force in making arrests or controlling demonstrations, often with impunity
- self-censorship practiced by most journalists
- widespread corruption in all branches of government
- violence and societal discrimination against women
- child abuse
- internal trafficking of children and child domestic labor

The IGOH made some progress in improving the HNP, as well as in key areas of judicial reform, during the latter portion of the year. Despite delays and poor management by the electoral authorities, more than three million citizens registered and were prepared to choose among 35 presidential candidates and to fill 129 parliamentary seats in the 2006 elections.

There were credible reports of arbitrary killings by some members of the disbanded armed forces (FAd'H) who helped force President Aristide's resignation, by partisans of Aristide's political party Fanmi Lavalas (FL), and by street gangs who were suspected of being paid and armed by supporters of former President Aristide.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Arbitrary and other unlawful deprivation of life perpetrated by state agents and others continued throughout the year. Members of the HNP continued to commit arbitrary and unlawful killings. With rare exceptions, there was no followup or investigation into these killings. In addition members of gangs and other illegally armed groups arbitrarily killed citizens (see section 1.g.).

On January 4, an HNP operation in the Port-au-Prince slum of Cite de Dieu resulted in the deaths of seven persons, including 16-year-old Angela Amazan.

A MINUSTAH patrol arrested Jimmy Charles on January 5 in the Fort National section of Port-au-Prince. The patrol turned Charles over to the police at the Anti-

Gang Police Station. On January 12, he appeared before a judge, who released him from custody. He was found dead on January 13; the cause of death, while unknown, was suspicious.

On January 14, an HNP officer shot and killed journalist Abdias Jean while conducting an operation against gangs in Cite de Dieu (see section 2.a.).

On February 12, HNP officers shot and killed 4-year-old Milderly Valbrun in crossfire during a police operation against members of the former military.

On April 27, HNP officers shot and killed four persons during a violent pro-Lavalas demonstration near UN headquarters (see section 2.b.).

On August 20, HNP officers raided a soccer match in the Martissant slum of the capital in an operation to root out gang members. Police shot and killed six young men: Reginald Michel, Nesdou Fevry, Denis Jean Marie, Gregory Odice, Frank Herne, and Alcidas Erinel. Civilian police informants (*attachés*) identified gang members to the police and hacked with machetes those gang members who tried to flee the scene, injuring an estimated 30 others. By October an HNP investigation resulted in the arrest of 15 police officers, including 2 top commanders, for their role in the operation. On November 7, the director general of the judicial police submitted a 900-page investigative report that concluded that actions taken by the commanders were criminally negligent. At year's end those arrested remained in prison in preventive detention; no determination had been made whether to file formal charges against them.

Throughout the year various international bodies, including the Inter-American Commission on Human Rights (IACHR) and the International Crisis Group, called on the government to establish an independent commission to investigate human rights abuses at the hands of the HNP and to better equip the judicial system to prosecute such cases.

There were deaths in prison during the year (see section 1.c.).

There were no developments and none were expected in the killings reported in 2004.

The IGOH's investigations into the high-profile killings of journalists Jean Dominique in 2000 and Brignol Lindor in 2001 continued at year's end (see section 2.a.).

b. Disappearance.—There were credible reports of disappearances after arrests by the HNP during the year.

On January 29, an HNP patrol arrested Wilbert Jeanty, Jean Casimir Pierre, Jean Louis, Saurel Marcellus, and Thomas Fils Aime after they left a construction supply store near the airport. None of the five young men were seen since the arrest.

There were also reports of disappearances stemming from the internal conflict (see section 1.g.).

There were widespread kidnappings by armed criminal elements of citizens from all social strata throughout the year. While most were resolved through the payment of ransom, some victims were tortured and killed while in their kidnappers' custody.

On March 31, kidnappers abducted cardiologist Dr. Michel Theard from his medical offices in downtown Port-au-Prince.

Community Radio station employee Lorency Cavalier was kidnapped in May and held for 11 days by her captors. She was reportedly raped and mistreated while in custody and subsequently committed suicide on July 1.

There were no developments in the disappearance cases reported in 2004, including Wisly Francique and Jasmy Emmanuel.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such actions, members of the security forces continued to violate these prohibitions. Police officers used excessive and sometimes deadly force in making arrests or controlling demonstrations and rarely were punished for such acts. Members of the HNP also used excessive force, such as shooting and using teargas, to suppress demonstrations (see section 2.b.).

On May 17, men dressed in black and aboard a Nissan Patrol shot and killed a young man whose body was later found, with his head covered with a bag, in the Pacot neighborhood of Port-au-Prince.

The Carrefour police station (also called Omega) was known as a center of torture and beatings of detainees. On May 6, a team from the National Network of Defenders of Human Rights (RNDDH) visited the station and spoke with 30 detainees, who denounced the mistreatment they had received. The delegation observed scars on some detainees, apparently from beatings they received while being arrested. Nikenson Jean Baptiste, a prisoner whom police arrested on April 26, could not remain standing while the delegation was present. Ralphe Ramvil, arrested on May

2, had been beaten on the testicles and had difficulties urinating. Some of the remaining detainees complained of hearing problems and earaches, suggesting that police tortured them by boxing their ears (*kalot marassa* in Creole).

Judie C. Roy, who repeatedly was tortured in various prisons during 2003 and ultimately incarcerated at the Petionville police station for "plotting against the security of the state," escaped from prison following President Aristide's departure and was not rearrested. There were no efforts made to rearrest Roy, who was the only female presidential candidate in the scheduled elections.

There were no developments in the 2003 torture investigations of Joseline Desroses or Jonathan Louime.

Prison and Detention Center Conditions.—Prison conditions worsened during the year. In 2004 many police stations and prisons around the country were damaged or destroyed, and by year's end, only 17 of 21 prisons were rehabilitated and rendered functional. An already burdened prison system was stressed further with insufficient facilities to hold prisoners, especially as new arrests mounted during the year. Conditions in these facilities deteriorated and, due to lack of available space, minors and adults often were held in the same cell. The most severe overcrowding was in Port-au-Prince, where the National Penitentiary, built to hold a maximum of 800 prisoners, held approximately 1,800 inmates at year's end.

Police holding cells are located within principal and sub-police stations and hold individuals being questioned by the police as well as those who have been arrested by the police. Each police station contains an investigative unit responsible for preparing police reports and, when required, accompanying those in custody to a courthouse within 48 hours of the individual's arrest. Police routinely violated the 48-hour rule.

Prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and, in some facilities, 24-hour confinement. Most prisons periodically suffered from lack of water, especially in the provinces. The incidence of preventable diseases such as beriberi, AIDS, and tuberculosis increased. The prison population numbered 3,670 as of November. Approximately 89 percent of prisoners still awaited a judicial determination on their cases; only 417 had been sentenced. The situation was particularly grim at the National Penitentiary, where out of 1,833 prisoners, 73 were sentenced, about 4 percent of the population. The prison population did not reflect the large number of persons who were held in police stations around the country in prolonged preventive detention for longer than the constitutionally mandated 48-hour time period. Due to poor record keeping at the police stations, it was difficult to estimate the number of people held in preventive detention.

The RNDDH actively monitored prison conditions in cooperation with the Department of Prison Administration (DAP), which offered a prisoners' rights awareness campaign. Both RNDDH's and DAP's programs continued during the year.

The DAP conducted objective testing of prison physicians and nurses to exclude those who were inadequately trained. Doctors were available in the capital but were less frequently available to those incarcerated in the provinces. Nurses did not conduct daily checkups on the physical condition of inmates. Dispensary supplies were limited, and family members often had to purchase needed medication.

On February 19, armed men attacked the National Penitentiary in downtown Port-au-Prince, resulting in the escape of 481 inmates. No injuries or deaths were reported among prisoners. One prison guard was attacked and injured on his way to the prison and an off-duty prison guard, Omeus Jean Marie Guerrier, was shot and killed in front of the prison as he drew his weapon while attempting to stop the attack. Two months earlier (in December 2004) the HNP used excessive force to quell a riot at the National Penitentiary; 7 prisoners were killed and 17 injured. The two incidents underscored the extent of the overcrowding problem at the penitentiary.

Space permitting, male and female prisoners were held separately. Juvenile detainees were not held separately from adults. After a November visit to study the situation of children and adolescents in the country, a joint delegation from the UN Children's Fund (UNICEF) and the IACHR criticized the "prolonged periods of detention without charges being brought against them and virtually without judicial controls, including the imprisonment of 10-year-old children, in flagrant violation of the law."

Overcrowding prevented the separation of violent from nonviolent prisoners or convicts from those in pretrial detention. Many were incarcerated in temporary holding cells, particularly in the provinces.

The authorities freely permitted the International Committee of the Red Cross (ICRC), the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical

care, food, and legal aid. The director general of the HNP and the DAP cooperated with the ICRC.

d. Arbitrary Arrest or Detention.—While the law prohibits arbitrary arrest and detention, security forces continued to employ both practices. The constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or on the basis of a written order by a legally competent official, such as a justice of the peace or magistrate. The authorities can only execute these orders between 6:00 a.m. and 6:00 p.m. and must bring the detainee before a judge within 48 hours of arrest. In practice officials frequently ignored these provisions. There were also instances of arrests by security forces and local officials lacking proper authority. Former FAd'H members and former *chefs de section* sometimes executed arrest warrants in under-policed rural areas.

Role of the Police and Security Apparatus.—The HNP has the sole responsibility for law enforcement and maintenance of order in the country. The HNP is an officially autonomous civilian institution, under a director general who controls the force while the minister of justice and the secretary of state for public security under the ministry provide oversight.

After President Aristide's departure, the new leadership of the HNP took steps to address corruption by firing 200 corrupt, inexperienced officers and inducting a new class of recruits who were cleared by local human rights organizations, assisted by an international one. A new director general, installed in July, purged the upper ranks of the internal affairs unit of corrupt officers and appointed a new professional inspector in charge of investigating accusations of police corruption and human rights abuses. Under the new director general's leadership, the HNP conducted swift investigations of human rights cases, arrested suspected officers, and shuffled leadership to remove tainted supervisors from the field. Nevertheless, efforts to reform the HNP remained incomplete, and some HNP officers were still implicated in corruption, kidnapping, and narcotics trafficking. Allegations of human rights abuses by the HNP, although diminished, continued throughout the year (see section 1.a.).

The UN-established civilian police (CIVPOL) element of MINUSTAH supplemented the police and improved the HNP's capacity to maintain order.

Arrest and Detention.—Police often apprehended persons without warrants or on warrants not issued by a duly authorized official. The authorities frequently detained individuals on unspecified charges or pending investigation. Several former members and supporters of the Lavalas government who were suspected of human rights abuses, fomenting violence, or other crimes were arrested without proper warrants due to high levels of corruption in the judiciary. Certain police jurisdictions routinely disregarded the 48-hour requirement to present detainees before a judge, and some detainees were held for extended periods in pretrial detention, often without being informed of charges against them. Detainees generally were allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the government did not provide free counsel. Bail was available at the discretion of the investigative judge. Bail hearings are not automatic, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds such as a need for medical attention.

Since so many persons were in pretrial detention and had yet to be charged, a number of them could be characterized as political detainees.

On July 21, police with a warrant arrested Father Gerard Jean-Juste, a well-known Catholic priest and pro-Aristide activist. The police originally took the priest into protective custody after he nearly caused a riot when he attempted to attend the funeral of journalist Jacques Roche. The police later decided to question him about possible involvement in Roche's death. He appeared before a judge on July 22 and was remanded to the National Penitentiary while a judge investigated his case. In August Father Jean-Juste was transferred to a prison annex where he could be monitored medically. Father Jean-Juste's case proceeded within the time limits of the law, and on October 19, a judge formally charged him with orchestrating the kidnapping and killing of Jacques Roche. Doctors diagnosed Father Jean-Juste with leukemia in late December. The investigative judge completed his investigation of the case but had not released his report due to a judicial strike. Due to Father Jean-Juste's declining health, however, the IGOH was exploring the possibility of releasing him for medical treatment abroad at year's end.

Annette Auguste "So Anne", a self-proclaimed pro-Lavalas community organizer, arrested in May 2004 and charged with being the architect of the 2003 attack on state university students, remained in prison at year's end.

Prolonged pretrial detention remained a serious problem; 96 percent of detainees and prisoners at the National Penitentiary had not been formally sentenced by a judge.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, in practice the judiciary was subject to significant influence by the executive and legislative branches. Years of extensive corruption and governmental neglect left the poorly organized judicial system largely moribund. Judges assigned to politically sensitive cases complained about interference from the executive branch. Then Minister of Justice Bernard Gousse made minimal efforts at reforming the justice system, such as relieving corrupt judges of their caseloads. In May the IGOH replaced Gousse with Justice Minister Henri Dorleans, who enacted tough judicial reform measures, particularly on pretrial detention. The new minister introduced system-wide changes aimed at strengthening the system's capacity. Although some immediate improvements were made, such as special judicial sessions to adjudicate the cases of detainees held in prolonged pretrial detention, the system remained weak and had limited capacity at year's end.

Systemic problems—including underfunding and a shortage of adequately trained and qualified justices of the peace, judges, and prosecutors—created a huge backlog of criminal cases, with many detainees waiting months or in pretrial detention for a court date (see section 1.d.). For persons acquitted or who had charges dismissed, there was no legal redress for their prolonged pretrial detention.

In December the IGOH issued a presidential decree involuntarily retiring five judges from the Supreme Court. The action resulted from the interim government's outrage over two Supreme Court decisions affirming Haitian-American Dumas Simeus' right to appear on the presidential ballot (see section 3).

In most regions judges lacked the basic resources and professional competence. The qualifying year-long course at the magistrates' school requires no previous legal training. Judges increasingly conducted legal proceedings exclusively in Creole rather than French, but language remained a significant barrier to full access to the judicial system (see section 5). The UN Development Program (UNDP), supported by the government, provided additional training for many segments of the judicial system, including new judges and attorneys.

On April 25, former Port-au-Prince police chief Jackson Joanis appealed his conviction for his role in the murder of Father Jean-Marie Vincent in 1994. On June 10, the appeals court overturned Joanis' conviction for lack of sufficient evidence against him and set him free.

Former paramilitary leader Louis-Jodel Chamblain was released from prison on August 11. Chamblain appealed his 2000 conviction in absentia for the 1994 Raboteau massacre, and the appeals court overturned it in late May, citing irregularities within the original trial. Although he remained in prison to face additional charges related to a 1993 incident in Cite Soleil, on June 7, his lawyers filed a writ of habeas corpus asserting that he was being held without due process, and the court ordered his release on July 26.

The release of Chamblain and Joanis, despite their alleged roles in other human rights violations, called into question the IGOH's commitment to respect the rule of law and to strengthen democratic institutions in the country.

At the lowest level of the justice system, justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Thirty appeals court judges hear cases referred from the first instance courts, and the 11-member Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality.

Trial Procedures.—The judicial apparatus follows a civil law system based on the Napoleonic Code. Although the constitution provides for the right to a fair public trial, this right was abridged widely in practice. The constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice are present or they waive this right; this right also was abridged in practice. Most accused persons could not afford legal counsel for interrogation or trial, and the law does not require that the government provide legal representation. Despite the efforts of local human rights groups and the international community to provide free legal aid, many interrogations occurred without presence of counsel. However, some defendants had access to counsel during trials. While the constitution provides defendants with a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf, in practice corrupt and uneducated judges frequently denied defendants these rights.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes, dividing the authority among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often received files that were empty or missing police reports. Autopsies were conducted rarely, and autopsy reports seldom were issued. The law provides for two criminal court sessions (*assises*) per year in each of the 15 first instance jurisdictions for all major crimes requiring a jury trial; each session generally lasts for two weeks. Criminal *assises* in Port-au-Prince have met once a year since 1998.

Citizens deported to the country after completing prison sentences in foreign countries were detained until a family member agreed to take custody of them and their prison release order was processed, although there is no provision for such detention in the law. This generally took one to two months but lasted as long as four months in unusual instances.

Political Prisoners.—Former Prime Minister Yvon Neptune and a former minister of interior remained in jail at year's end. A judge formally charged Neptune, Joclerme Privert, and 28 former Aristide government officials and Lavalas supporters with orchestrating and carrying out the February 2004 attacks in La Syrie, St. Marc.

In September Amnesty International categorized Father Gerard Jean-Juste as a political prisoner (see section 1.d.).

Other Lavalas partisans still behind bars were implicated in criminal or human rights abuses, but their cases remained mired in the judicial system where they awaited final determination.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Although the law prohibits such practices, police and other security force elements routinely conducted searches without warrants.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Much of the violence and unrest in the country stemmed from the armed rebellion that forced out President Aristide in February 2004. Common criminality and armed attacks against civilians continued to create fear and panic among the population. The number of kidnappings for ransom increased significantly and occurred at every strata of society. Pro-Lavalas partisans were implicated in violence and numerous killings in Port-au-Prince, including of police officers. At year's end a stronger police presence in the countryside and MINUSTAH and IGOH cooperation assisted in extending governmental authority outside of Port-au-Prince in the pre-election season.

Since September 2004 hundreds of people were reportedly killed in a surge of political violence that followed a series of demonstrations organized by pro-Aristide partisans in Port-au-Prince. The campaign, subsequently known as "Operation Bagdad," included kidnapping, decapitation, and burning of police officers and civilians, indiscriminate shooting at bystanders such as taxi drivers, students, parents, and small merchants, and the destruction and incineration of public and private property. The violence prevented the normal functioning of schools, public markets, the seaport, and the justice system in Port-au-Prince for several weeks in the fall of 2004. Many of the killings were believed to have been carried out by pro-Lavalas armed gangs and by some members of the HNP. In response to the violence, the HNP conducted sweeps of heavily pro-Aristide areas of Port-au-Prince in search of the perpetrators. Many arrests were conducted without warrants, and suspects were held in prolonged detention without seeing a judge (see section 1.d.). While this level of violence waned somewhat early in the year, there was a reemergence during the kidnapping sprees of May and throughout the summer, and it spiked again in November and December, becoming a broader type of criminality committed by gangs with no specific political characteristic.

On March 20, MINUSTAH military and CIVPOL forces raided the police station in Petit-Goave and ejected the ex-FAd'H soldiers who had occupied the station since July 2004. One Sri Lankan peacekeeper was killed, 2 former military members died, 12 were injured, and another 25 were detained and transported back to Port-au-Prince.

Unknown attackers shot and killed a police officer assigned to the security detail of former Justice Minister Bernard Gousse on March 22 at the minister's residence.

On March 28, armed assailants shot and killed two police officers, including Inspector Emmanuel Milien, and a driver assigned to the director general of the National Port Authority.

In Cite Soleil on March 30, rivals of gang leader Robinson "Labanye" Thomas tortured and killed him, reportedly under orders from opposing gang leader "Dread Wilme."

On April 14, a soldier from the Philippine MINUSTAH contingent was shot and killed at a checkpoint near Cite Soleil.

In a separate incident on the same day, ex-FAd'H forces led by Ravix Remissainthe ran a MINUSTAH checkpoint in Terre-Rouge in the Central Plateau, killing a Nepali peacekeeper.

On April 28, armed individuals kidnapped professor, brother of the education minister, and presidential candidate Dr. Jean Henold Buteau from his classroom at the State University. His captors released him after payment of an unspecified ransom.

On May 13, armed attackers attempted to kidnap the president of the Association of Haitian Medical Technicians Elna Eyna in the Nazon section of the capital. Eyna was shot dead on the scene when she resisted her attackers.

On May 21, armed bandits kidnapped Elto Ambroise, an officer in the HNP's specialized crowd control unit, from his home in the Bel Air section of Port-au-Prince. Ambroise's captors killed him the same day.

On May 31, unidentified assailants set fire to a police substation in Portail Saint Joseph and the neighboring *Marche Tete Boeuf* marketplace in downtown Port-au-Prince. More than 10 merchants, mostly women, died in the fire, and commercial losses were estimated in the millions of dollars.

Joint MINUSTAH/HNP operations throughout June and July resulted in the death or capture of various criminal elements in the capital. In the early morning of July 6, MINUSTAH launched an operation into the Bois Neuf area of Cite Soleil, killing gang leader "Dred Wilme" and five of his associates. Varying accounts and some human rights groups estimated that UN troops killed between 50 and 70 civilians that day. An internal UN investigation into the events confirmed that MINUSTAH soldiers killed seven people during the operation. The report also cited the possibility of other civilian casualties during the exchange of gunfire between MINUSTAH soldiers and gang members in Cite Soleil, but the investigation was unable to confirm how many persons died in the crossfire.

In the Port-au-Prince neighborhood of Bel Air on September 29, Brazilian MINUSTAH soldiers shot and killed gang leader "Den Sere." During the same operation, UN soldiers shot and injured gang leader "General Toutou," and the HNP arrested 20 other gang members. The two gang chiefs were suspected of having orchestrated most of the kidnappings and criminal activity in the capital since March.

On October 22, a corporal from the Jordanian MINUSTAH contingent was shot in the head and killed during an operation to free kidnap victims.

On October 27, Jean Dady Ostine (alias "Ti Kenley") was killed during a confrontation in Petit-Goave with MINUSTAH soldiers. Ti Kenley participated in the anti-Lavalas movement that led to departure of President Aristide in February 2004.

There were no further developments in the investigation into the October 2004 summary execution of 13 young persons in the Fort National area of Port-au-Prince, which many witnesses attributed to the HNP. Although the prime minister and chief of police categorically rejected any police involvement in the crime, authorities arrested two active-duty police officers for it in 2004.

There were no further developments and none were expected in the other killings reported in 2004.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Print and electronic media freely criticized the government, but in practice most journalists admitted to some form of self-censorship to avoid offending sponsors or the politically influential.

There were three French-language newspapers, which had a combined circulation of less than 20 thousand readers. Some irregularly printed papers frequently criticized IGOH policies and strongly supported the Lavalas regime. With literacy rates of 52 percent for adults and 65 percent for youth, and limited access to television, the most important medium was radio, especially stations broadcasting in Creole. The 329 radio stations carried a mix of music, news, and talk show programs that many citizens regarded as their only opportunity to speak out on a variety of political, social, and economic issues. The few stations carrying news or opinion freely broadcast a wide range of political viewpoints.

Although most radio stations and other forms of telecommunication nominally were independent, they were subject to a law designating the state as the sole owner and proprietor of the airwaves. The state leases broadcast rights to private enterprises, retaining preemption rights in the event of a national emergency, including natural disasters. The government did not exercise this right in practice.

In May the nongovernmental organization (NGO) Reporters without Borders issued a report stating that press freedoms had increased but remained fragile since the departure of former President Aristide.

On January 14, an HNP officer shot and killed journalist Abdias Jean while conducting an antigang operation in the Port-au-Prince slum of Cite de Dieu (see section 1.a.).

On February 4, assailants attacked two journalists from pro-Lavalas Radio Megastar in Port-au-Prince. They shot one in front of the station, and the HNP reportedly injured the other.

In March Frantz Altidor, news director of Radio Provinciale in the northwest town of Gonaives, reported harassment stemming from his public demand for an apology from the HNP for calling a press conference and then refusing journalists entry to the police station once they arrived. A week after his request, Altidor's home was invaded; the armed aggressors told him not to bother calling the HNP as they would not help him.

In response to this incident, radio stations in Gonaives held a "solidarity day" on March 14 and only broadcast news involving the attack on Altidor. That evening Fritz Hubert Zamor of Radio Provinciale conducted a radio interview with Altidor. Later that night Jocelin Joseph of Radio Provinciale was stopped and accosted; his aggressors searched his car and told him if they found any indication that he was a member of the press they would kill him and throw him in a ravine. They asserted they were seeking members of the press, including Altidor and Zamor of Radio Provinciale, Marc Andre of Radio Independence, and Honorat Marc Antoine of Radio Etincelles.

On March 27, the local governmental representative of the Artibonite region met with members of the Haut Artibonite Journalist Association, including Altidor, and informed them the HNP director general was investigating a group of 15 police officers suspected of working with gangs in Gonaives. On April 4, the authorities transferred 20 police officers to other posts.

On March 20, radio journalist Robenson Laraque of Radio Telekontak was caught in gunfire during a MINUSTAH operation to root out ex-FAd'H members in Petit-Goave (see section 1.g.). He was flown to the Dominican Republic for medical treatment but died on April 4 as a result of the injuries.

Well-known journalist and talk show host Nancy Roc left the country temporarily in May due to kidnapping threats. She previously left the country in December 2004 following public threats from rebel leader Ravix Remissainthe and private threats from a pro-Aristide source.

On July 14, police discovered the mutilated body of popular and influential journalist Jacques Roches in Port-au-Prince. Roches' death significantly affected the media community. Gang members reportedly kidnapped Roches because of his efforts to promote civil society in the country. Some arrests were made in connection with his death, including that of Father Gerard Jean-Juste, who was suspected of orchestrating Roches' killing (see section 1.d.).

The men in jail for the killings of journalists Brignol Lindor in 2001 and Jean Dominique in 2000 escaped in February 2004. Police rearrested two of those charged with Dominique's death, Dynsley Millien and Jeudi-Jean Daniel, in August of that year. Philippe Markington, the other person charged in that killing, remained at large at year's end. In March 2004, police arrested Port-au-Prince deputy mayor Harold Severe and security agent Rouspide Petion for alleged involvement in the Dominique slaying. In March a court appointed the sixth investigative judge in the Dominique case, but he later removed himself from the case in June.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—While the law provides for freedom of assembly, and the IGOH generally respected the right of citizens to peacefully demonstrate, the HNP sometimes used force to control violent demonstrations.

On February 28, police shot and killed two people during a demonstration in Bel Air commemorating the 1-year anniversary of former President Aristide's departure. There was no investigation into these killings.

During a demonstration staged by pro-Lavalas partisans near the UN headquarters on April 27, HNP officers shot and killed five demonstrators. There were conflicting reports of the events that led to the shooting by police. Local residents claimed that officers from one of two police vehicles present on the scene shot indiscriminately into the crowd of demonstrators as they approached the UN building. Other witnesses reported that some demonstrators turned violent and vandalized cars and property in the area, provoking the police reaction. There was no official investigation into the event by year's end.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. The Penal Code requires prior

government approval for any association of more than 20 persons that seeks tax benefits and official recognition.

c. Freedom of Religion.—The law provides for freedom of religion, provided that practice does not disturb law and order, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The local Jewish community was very small.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits the involuntary exile of citizens, and there were no reports of its use. During the year former Aristide government officials often imposed internal and external exile upon themselves and their families for fear of retaliation by rebel groups or former military members (see section 1.g.).

An unknown number of undocumented migrants left the country to seek better economic opportunities. The government's National Migration Office (ONM) was responsible for assisting citizens repatriated from other countries and frequently provided small sums of money to repatriated migrants for transportation. During the year the ONM assisted in the repatriation of 1,828 Haitian citizens.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

Since there were no known foreign refugees in the country, there was no opportunity for the government to cooperate with the office of the UN High Commissioner for Refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

The political system changed significantly following President Aristide's February 2004 resignation and departure from the country. Boniface Alexandre, president (chief justice) of the Supreme Court, assumed office as interim president in accordance with the constitution. On recommendation from the Council of Eminent Persons, who had been chosen by a tripartite commission including representatives of FL, the Democratic Platform, and the international community, the president chose Gerard Latortue as interim prime minister.

In April 2004 representatives of the IGOH, leaders of the Convergence Democratique, the Group of 184, and at least one branch of the "non-aligned" parties agreed on a transition accord outlining the IGOH's mandate and committing it to organize elections in 2005.

Elections and Political Participation.—To implement the commitment to hold elections, the government agreed to appoint a nine-person Provisional Electoral Council (CEP), with representatives from several parties including FL. When FL refused to nominate its representative, the government appointed eight members; after several weeks, it appointed a ninth member to fill the FL slot. The CEP proceeded with its mandate but due to internal conflicts among the members and bureaucratic delays, the CEP pushed back the original October election date until February 2006. The total number of persons registered to vote was approximately 3.5 million.

There were 35 registered candidates for the presidency from across the political spectrum. Former President Jean Bertrand Aristide's Fanmi Lavalas party formed an alliance with Marc Bazin's party—the Movement for the Installation of Democracy in Haiti—and registered him as the Lavalas presidential candidate under the umbrella of Union Pour Haiti. Former President and Lavalas member Rene Preval formed a coalition with the Escamp, Pati Louvri Barye, and Korega parties and ran for president under the banner Front de l'Espoir. Independent and prominent Haitian-American businessman Dumarsais Simeus joined the Tet Ansamn party and registered as the party's presidential pick. Questions about Simeus' citizenship status involving a possible conflict with the constitution placed his candidate eligibility into doubt. The CEP removed him from the list, but the Supreme Court overturned

the CEP's decision and added his name back to the list. The IGOH formed a candidate nationality commission to investigate the citizenship of all candidates wishing to run for president, requiring candidates to resubmit their applications for review. Despite a second supreme court ruling in his favor, Simeus was left off the presidential ballot. Another dual citizen, Mobilization pour le Progres d'Haiti presidential candidate Samir Mourra, was also affected.

The monetary deposit required of female candidates for political office (if sponsored by a recognized party) is one-half that required of male candidates. Two of the IGOH's 17 cabinet ministers were women. There was one female candidate for the presidency, and a large number of female parliamentary and municipal candidates.

Government Corruption and Transparency.—The NGO Transparency International noted that the country was extremely corrupt, and there was a widespread public perception of corruption in all branches of government. In November the HNP director announced that since July more than 50 police had been fired or jailed on allegations of corruption.

There was no law requiring public access to government information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The IGOH cooperated with the various human rights observation missions and generally acknowledged their views but lacked the capacity to implement their recommendations. The government permitted special missions and the continued presence of UN bodies and other international organizations such as the ICRC, the UN Independent Expert on Human Rights, the UNDP, the IACHR, MINUSTAH's Human Rights Office, and the Organization of American States' Special Mission's human rights office.

From April 18 to 22, the IACHR conducted an onsite mission in the country. Based on meetings with members of the government, judicial sector officials, police leadership, electoral council members, MINUSTAH officials, NGOs, and civil society, the delegation concluded that the lack of a comprehensive disarmament program and a severely understaffed and poorly equipped police force helped to create instability. The delegation estimated that 600 persons, including 19 police officers, had been killed in acts of violence since September 2004. The commission also said that the security situation had been exacerbated by the poorly functioning judicial system and called on authorities to increase efforts to reduce the number of people in prolonged pretrial detention. The IACHR commended the national dialogue process and urged citizens from all political parties to move beyond confrontation and toward reconciliation.

At the national and international levels, human rights organizations were active and effective in monitoring human rights issues, meeting frequently with government officials. Human rights organizations, including the Platform of Haitian Human Rights Organizations, the National Coalition for Haitian Rights, the Lawyers' Committee for the Respect of Individual Liberties (CARLI), the Ecumenical Center of Human Rights, and the Catholic Bishops' National Commission on Justice and Peace, made frequent media appearances and published objective reports on violations. Human rights organizations continued to focus on issues that were persistent problems in the country, including prison conditions, the widespread lack of health facilities, and impunity for criminals. All reported receiving threats as a result of their work.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the constitution, received complaints of abuse at all levels of government. The government did not directly impede OPC investigations but did not always respond to its requests for information. Relations between the OPC and major human rights organizations such as the Platform for Human Rights and CARLI continued to be positive. Budgetary problems limited the OPC to four employed investigators, which hindered its ability to investigate human rights abuses.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law does not specifically prohibit discrimination on the grounds of race, gender, disability, language, or social status. It does provide for equal working conditions regardless of gender, beliefs, or marital status. However, there was no effective governmental mechanism to administer or enforce these provisions.

Women.—The law prohibits and provides penalties for rape and domestic violence against women. In September the IGOH issued a presidential decree that categorized both rape and adultery as crimes punishable by a maximum of 10 years'

imprisonment. Gang rape and premeditated, aggravated assault carried a penalty of 15 years' hard labor.

According to women's rights groups and human rights organizations, rape and other abuses against women were commonplace and increased, both within and outside marriage. Women's shelters and organizations reported that local armed thugs frequently raped and harassed girls and women in slums such as Cite Soleil and Martissant. Police rarely arrested the perpetrators or investigated the incidents, and the victims sometimes suffered further harassment in retaliation. The Haitian Group for the Study of Karposi's Syndrome and Opportunistic Infections reported treating an average of 25 rape victims per month during the year, compared with 22 per month in 2004. The majority of assaults took place in Port-au-Prince. There were no government-sponsored programs for victims of violence. The Criminal Code excuses a husband who kills his wife or her partner upon catching them in an act of adultery in his home, but a wife who kills her husband under similar circumstances is not excused.

Although prostitution is illegal, it remained a problem.

The law does not specifically prohibit sexual harassment, although the Labor Code states that men and women have the same rights and obligations. Sexual harassment of female workers was a problem, especially in the assembly sector. Women reported that some employers sexually harassed female workers with impunity. Women also reported that while most assembly sector workers were women, virtually all supervisors were men.

Women did not enjoy the same social and economic status as men. In some social strata, tradition limited women's roles. A majority of peasant women remained in traditional occupations of farming, marketing, and domestic labor. Very poor female heads of household in urban areas also often had limited employment opportunities, such as domestic labor and sales. Laws governing child support recognize the widespread practice of multiple-father families but rarely were enforced. Female employees in private industry or service jobs, including government jobs, seldom were promoted to supervisory positions.

Domestic women's rights groups were small, localized, and received little publicity. Some women's rights groups became increasingly involved in political and civic voter education initiatives in the pre-election season.

Children.—Governmental agencies and programs to promote children's rights and welfare existed, but the government lacked the capacity and the resources to adequately support or enforce existing mechanisms.

According to the 1987 constitution, public primary education is free and compulsory, but in practice many children did not have access due to the insufficient number of public schools. Nearly 90 percent of schools were managed by religious institutions or NGOs. The high cost of private education was an impediment for families who must pay school fees and incur costs for uniforms, books, and school supplies. Poorer families sometimes rationed education money to pay school fees only for male children. Schools were dilapidated and understaffed. According to the government, 40 percent of children never attended school. Of those who did, less than 15 percent graduated from secondary school. The Ministry of Education estimated net primary school enrollment at 65 percent but acknowledged that 500 thousand children aged 6 to 11 were not in school (the real number was thought to be much higher). In addition nearly 75 percent of adolescents were not in school. The IGOH did not have adequate programs in place to address the educational and social reinsertion needs of the out-of-school youth population.

According to the most recent UNICEF statistics from 2004, approximately 23 percent of all children under the age of 5 were chronically malnourished.

Child abuse was a problem. There was anecdotal evidence that in very poor families, caretakers deprived the youngest children of food to feed older, income-generating children.

Although the law prohibits corporal punishment of children, in practice corporal punishment was accepted as a form of discipline, especially in schools.

There were reports that children were trafficked within the country and forced to work as domestic servants, called *restaveks* ("to live with" in Creole) (see sections 5, Trafficking and 6.d.).

Port-au-Prince's large population of street children included many *restaveks* who were dismissed from or fled employers' homes. The Ministry of Social Affairs provided minimal assistance, such as food and temporary shelter, to street children.

In November a joint UNICEF/IACHR delegation expressed concern over grave violations of the human rights of children and adolescents being committed as part of the ongoing violence in the country. It said that children lived in fear and in extreme poverty and that the "increasingly generalized absence of the state" left them "extremely vulnerable and exposed to various forms of violence."

There were no new developments in the case of Wilfort Ferdinand "Ti Will," former member of the Cannibal Army and current member of the Reconstruction Front of the Artibonite, who shot and killed 6-year-old Francesca Gabriel in Gonaives in November 2004 in crossfire during a lovers' dispute.

Trafficking in Persons.—Although the law prohibits trafficking in women and children, internal trafficking of children for domestic labor remained a problem, and the country also was a source for trafficked persons to the Dominican Republic, the United States, Europe (mainly France), and Canada.

There were no penalties for trafficking in persons. The government acknowledged the problem of internal trafficking and took steps to address it. Although the HNP's Brigade for the Protection of Minors was responsible for investigating cases of child trafficking and monitoring movement of children across the border with the Dominican Republic, it was barely functional, and resource issues remained a barrier to its operational capacity. Government officials at local and national levels were trained on the legal framework for children's rights and methods of intervention to prevent and punish abuse of *restaveks* and trafficking.

Government officials assisted in international investigations of trafficking. In November the HNP, in coordination with MINUSTAH and the Dominican Consul General, conducted an operation to rescue 13 young Dominican women who had been trafficked into Haiti and forced to work in a brothel. Police arrested a Haitian suspect and repatriated all 13 girls to the Dominican Republic the following day.

Rural families continued to send young children, particularly girls, to more affluent city dwellers to serve as *restaveks* in exchange for that child's room and board. While some *restaveks* received adequate care, including an education, the Ministry of Social Affairs believed that many employers compelled the children to work long hours, provided them little nourishment, and frequently abused them. The majority of *restaveks* worked in low-income homes where conditions, food, and education for nonbiological children were not priorities.

The results of the most recent study of trafficking across the border conducted by UNICEF in 2002 reported that between two thousand and three thousand children were trafficked to the Dominican Republic each year.

Consulates along the Dominican border monitored the movement of children across the border. The Ministry of the Interior also reinforced agents at border control points at the three international airports to watch for children who might be traveling unaccompanied or without their parents. The Ministry of Justice continued to circulate memoranda to magistrates around the country in an awareness-heightening campaign on the antitrafficking law and on child labor laws. To address some of the social aspects of the *restavek* practice, the government provided a subsidy of 70 percent for educational supplies, including books and uniforms. The government also called on employers of child domestics to release them from their duties in the afternoon to allow them the opportunity to attend school.

Persons with Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. While the constitution provides that persons with disabilities have the means to ensure their autonomy, education, and independence, there was no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities.

Other Societal Abuses and Discrimination.—Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs sponsored by foreign donors, including a grant to a local clinic and efforts by HIV/AIDS activists, attempted to change that stigma.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers (except public sector employees) to form and join unions of their choice. The International Labor Organization (ILO) Committee of Experts commented on the need for the government to recognize by law the right of public servants to organize. The law also requires that a union have a minimum of 10 members and register with the Ministry of Labor and Social Affairs within 60 days of its formation. The law prohibits employers, management, and anyone who represents the interests of employers from joining a union. In theory unions are independent of the government and political parties, but in practice most unions were extensions of political parties. Nine principal labor federations represented approximately 5 percent of the labor force. Union membership decreased significantly, but unions remained active in the public sector.

b. The Right to Organize and Bargain Collectively.—While the law protects trade union organizing activities and stipulates fines for those who interfere with this right, in practice the government made little effort to enforce the law.

High unemployment rates and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining was nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better than average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers were problems in the assembly sector.

Although workers had access to labor courts established to resolve common labor-management disputes, the courts' judgments were not enforced. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process was inefficient. Seven labor courts operated in Port-au-Prince, and in the provinces plaintiffs utilized municipal courts.

The Labor Code provides for the right to strike, and workers (with the exception of managers, administrators, other heads of establishments, and public utility service workers) exercised this right in practice. The Labor Code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." There were few public sector strikes during the year.

There is one export processing zone (EPZ) located in Ouanaminthe, a town on the Dominican border. Legislation governing free trade zones provides that the Labor Code applies in the EPZs.

Since early February 2004, workers complained of exploitation and mistreatment by management of the Grupo M textile company, located in the EPZ. Rounds of strikes and violence by union members, supported by Batay Ouvriye, a labor organization of peasant workers, were followed by a series of employee terminations by the company throughout that summer. In late May Grupo M and Batay Ouvriye reached a mutually acceptable agreement. Since then, both sides adhered to their sides of the bargain; Grupo M slowly rehired laid-off union workers, and Batay Ouvriye negotiated responsibly with the company management.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor for adults and minors, the government failed to enforce this law with regard to children, who continued to be subjected to forced domestic labor as *restaveks* in urban households, sometimes under harsh conditions (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. The law prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers. Government agencies lacked the resources to enforce relevant laws and regulations effectively. According to the NGO Haitian Coalition for the Defense of the Rights of the Child, children worked primarily as *restaveks*; however, some worked on the street as vendors or beggars, and some were involved in prostitution.

In 2003 the results of a joint governmental-NGO funded study, which covered the fiscal years 2001–02, noted that 173 thousand children (8.2 percent) between the ages of 5 and 17 years, worked as *restaveks*. Labor laws require anyone who has a child domestic in their employ to obtain a permit from the Ministry of Labor and Social Affairs' Social Welfare and Research Institute (IBESR) and to ensure the overall welfare of the child until they reach 15 years of age. Additionally the law requires that *restaveks* 15 years of age and older be paid not less than one half the amount paid to an adult servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers dismissed many *restaveks* before they reached that age.

The government has not ratified and does not adhere to ILO Convention 182 on elimination of the worst forms of child labor.

Although the government designated IBESR to implement and enforce child labor laws and regulations, resources were inadequate to fund programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinated efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies, to formulate and enforce child labor policies.

e. Acceptable Conditions of Work.—The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members were appointed by the president (two representatives each of labor, employers, and government), is approximately \$0.96 (36 gourdes). This wage did not provide a decent standard of living for a worker and family. Some workers were paid on a piece-rate basis and earned more than the minimum wage. The majority of citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply and wages of \$0.40 (15 gourdes) a day were common. Many women worked as domestic employees, where minimum wage legislation also does not apply.

The law sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. The law was not effectively enforced, particularly for HNP officers who worked 12-hour shifts 6 days per week. There is no provision for the payment of overtime.

The law also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines, but the Ministry of Labor and Social Affairs did not enforce them effectively. There were no formal data, but unions alleged that job-related injuries were prevalent in the construction industry and public works sectors. Although they have the legal right to do so, in practice with more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

HONDURAS

Honduras is a constitutional democracy with a population of approximately seven million. In November national elections, considered by international and domestic observers to be generally free and fair, voters elected as president Jose Manuel Zelaya Rosales of the Liberal Party. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces, particularly the police, acted independently of government authority.

Government corruption, impunity for violators of the law, and gang violence exacerbated serious human rights problems in a number of areas. The following human rights problems were reported:

- extrajudicial killings by members of the police
- arbitrary and summary executions committed by vigilantes and former members of the security forces
- beatings and other abuse of detainees by security forces
- harsh prison conditions
- impunity for human rights violations
- failure of the authorities to provide due process of law
- lengthy pretrial detention
- lack of government funding, institutional weakness, and judicial corruption
- illegal searches
- erosion of press freedom
- violence and discrimination against women
- child prostitution
- child abuse
- trafficking in persons
- discrimination against indigenous people
- discrimination against persons based on sexual orientation
- lack of effective enforcement of labor laws
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—While the government or its agents did not commit any politically motivated killings, members of the security forces were suspected of direct involvement in extrajudicial, arbitrary, and summary killings. As in previous years, nongovernmental organizations (NGOs) reported killings of youths and children by vigilante groups that also may have included

members of the security forces (see section 5). No charges were filed nor convictions rendered against any persons in relation to such alleged killings. Between 1998 and October, the NGO Casa Alianza reported the killings of 2,879 children and young adults under the age of 23 and averred that government security forces were possibly involved in 9 of these killings.

Authorities sought or detained a number of police officials for their involvement in the killings of various individuals (see section 5).

By year's end there were no further developments, and none were expected, regarding the August 2004 appeals court ruling finding police officer Juan Carlos "Tiger" Bonilla and three other police officers innocent of a 2002 extrajudicial killing.

There were a number of deaths of prisoners caused by members of the security forces (see section 1.c.).

There were no further developments, and none were expected, in the investigation into the 2003 killing allegedly by two police officers of Eric David Yanez, a transgender person (see section 5).

On August 30, unknown assailants kidnapped and killed Jose Mario Garcia, the head of human resources at the Ministry of Public Works, and an unsuccessful candidate in the National Party's congressional primaries. An investigation was pending at year's end.

On September 11, unknown actors shot and killed Francisco Cruz Galeano, a General Confederation of Workers (CGT) union leader, in Ojo de Agua. It was not clear if Cruz's killing was connected to his union activity. An investigation was pending at year's end.

On October 2, two unknown actors shot and killed Rene Arturo Madrid Chinchilla, president of the Liberal Party Council for Tegucigalpa. By year's end police closed the case, calling it a robbery.

At year's end an investigation remained pending into the December 2004 killing, allegedly by gang members, of Christian Democratic congressional candidate Luis Armando Genawer Paguada.

There were no developments, and none were expected, in the 2003 killing by unknown assailants of environmental activist Carlos Arturo "Oscar" Reyes.

At year's end charges remained pending against Marco Tulio Vasquez Juarez for the 2003 killing of Jose Daniel Chinchilla Lara, the Vice President of La Central Cooperativas Cafetaleras de Honduras.

Arlin Daniel Escobar Moli remained under arrest with charges pending for the 2003 killing of priest Guillermo Antonio Salgado.

At year's end police had not arrested any suspects in connection with the 2001 killing of Nationalist Party congressional candidate Angel Pacheco. On September 16, however, Pacheco's body was exhumed for DNA analysis as part of the ongoing investigation. Due to decomposition of the body, no conclusive results were obtained. At year's end Pacheco's family and international groups continued to press the government to increase efforts to resolve the case.

In 2004 the government accepted responsibility for human rights abuses committed in the 1980s and promised to comply with Inter-American Court of Human Rights rulings regarding these killings. During the year a number of active and former military and police officials continued to face criminal charges for various human rights abuses, including the killings of 184 persons in the 1980s. Although most of the defendants were charged by the Public Ministry with illegal detention and murder, by year's end the Public Ministry remained unable to bring new cases against these individuals, including former members of the disbanded army Intelligence Battalion 3-16 (see section 1.b.).

During the year there were several exhumations of clandestine graves of persons believed to have been killed in the 1980s, but by year's end the remains had not been positively identified. Human rights organizations continued to seek information from various grassroots sources to locate other clandestine graves for future exhumations to advance prosecutions against alleged human rights violators. By law courts will not accept a case unless the body of the victim has been recovered and positively identified. An identified body allows families and human rights organizations to bring a case of suspected human rights abuse to court. Although investigations continued, by year's end no charges had been brought against any individuals as a result of these exhumations.

During the year there were no new developments, and none were expected, in the September 2004 acquittal of Jorge Adolfo Chavez Hernandez, formerly of Battalion 3-16, charged with the 1998 killing of environmental activist and councilperson Carlos Antonio Luna Lopez. At year's end cosuspect Jose Angel Rosa Rosa remained under arrest on unrelated charges, and suspects Italo Ivan Lemus and Marcos Mo-

rales remained at large. The case, brought by two NGOs in January 2004 before the Inter-American Court of Human Rights, remained pending.

There were no further developments in the Public Ministry's July 2004 appeal of the 2003 acquittal and release of Jaime Ramirez Raudales in relation to the 1988 political killings of social activists Miguel Angel Pavon Salazar and Moises Landaverde Recarte.

At year's end the appeals court had not issued a judgment in the case involving retired Major Manuel de Trejo Rosa, who remained under house arrest for the 1982 illegal detention and attempted killing of Nelson MacKay Echevarria and Miguel Francisco Carias Medina (see section 1.c.).

By year's end the Supreme Court of Justice had not rendered a decision in the case of Raymundo Alexander Hernandez Santos for the 1982 illegal detention and killing of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz.

In November Colonel Jaun Blas Salazar was detained by police for the murder and illegal house search of two individuals in the 1980's. The matter remained under further investigation at year's end.

During the year the Ministry of Public Security reported 49 police officers killed by unknown actors, noting that possibly 18 of these killings were committed by gangs. These killings included the July 6 torture, mutilation and killing under suspicious circumstances of two police officers, one of whom was pregnant.

Violent crime continued to fuel the growth of private unlicensed security guard services and vigilante groups that patrolled neighborhoods and municipalities allegedly to deter crime. Neighborhood watch groups called Citizen Security Councils (CSCs) reportedly took the law into their own hands. Human rights activists continued to assert publicly their belief that some CSCs, as well as private security companies with ties to former and current military or police officials, acted as vigilantes or death squads targeting youth and other elements of the population, with the tacit complicity of police.

The media reported that based on information from government sources, vigilante activities allegedly led to more than 970 killings in the last 7 years of known and suspected criminals, as well as gang members, street children, and youth not known to be involved in criminal activity (see section 5). Approximately 80 persons have been arrested over the past 7 years in connection with such killings, with 9 of those convicted by year's end.

At year's end the investigation remained pending regarding the March 2004 killing of Cesar Virgilio Pinot, allegedly by Agro Oriental security guards.

In December indigenous leader Feliciano Pineda was acquitted of the 2001 killing of Juan Reyes Gomez, but at year's end he remained in prison on other charges (see section 5).

During the year the Inter-American Court of Human Rights opened a formal case concerning the 2000 complaint filed by Casa Alianza against the government in connection with the illegal detention and killing by police of four youths in 1995, known as the "four cardinal points case." In its 2004 response to the court, the government accepted responsibility for the illegal detentions and killings of the youths but argued that there has never been a state policy to order the killings or to tolerate them.

b. Disappearance.—There were no reports of politically motivated disappearances. As of August, according to the Ministry of Public Security, there had been seven kidnappings for ransom, compared with four kidnappings during 2004.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, there were instances in which government officials employed them, including police beatings and other abuse of detainees.

On July 30, in Renaciedo juvenile correctional center, authorities detained and allegedly beat Herlan Fabricio Ramirez Colindres, a 16-year-old gang member suspected of committing several violent crimes, including the killing of DEA agent Michael Marke. Authorities reportedly left Ramirez handcuffed for more than 24 hours. Human rights activists protested the treatment of Ramirez and other minors held at the same detention center.

On May 30, Gregoria Flores, Garifuna rights activist and coordinator of the NGO OPRANEH (Organizacion Fraternal Negra Hondurena), was shot and injured in La Ceiba while collecting testimony to present before the Inter-American Court of Human Rights regarding the Garifuna community's land rights disputes with development interests. Police reported that the shooting was a robbery attempt, but indigenous rights advocates did not believe that this was a credible explanation and continued to push for a reopening of the investigation.

Regarding the cases of those accused of the 1982 illegal detention and torture of six students, on April 12, the case of retired Captain Billy Fernando Joya Amendola was appealed to a higher court, but the courts continued to deny appeals by the Public Ministry to reinstate his arrest warrant. The Public Ministry's appeal of the dismissal of charges in 2004 against retired Colonel Juan Evangelista Lopez Grijalba remained pending. At year's end Lopez Grijalba remained free on bail.

There were no further developments in the Supreme Court of Justice's 2004 injunction ordering the appeals court to issue a new judgment in the case of retired Major Manuel de Jesus Trejo Rosa, arrested with Raymundo Alexander Hernandez for the 1982 illegal detention and attempted killing of Nelson MacKay Echevarria and Miguel Francisco Carias Medina.

Prison and Detention Center Conditions.—Prison conditions were harsh, and prison security was poor. Human rights groups reported that prisoners suffered from severe overcrowding, malnutrition, lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape by other prisoners. In many cases prisoners relied on outside help from visitors to survive because the prison system did not provide adequate food or other basic necessities. Prison escapes, through bribery or other means, remained a frequent occurrence. Herlan Fabricio Ramirez Colindres (see section 1.a.), escaped from two different prisons prior to incarceration on November 26, in the minors facility at Renacer prison. Of the year's prison population of 11,545, approximately 905 inmates were gang members.

Prison disturbances, caused primarily by harsh conditions and inter-gang violence, occurred in the larger facilities of San Pedro Sula, Tegucigalpa, and Choluteca. During the year 19 gang members were killed in prison, in some cases by members of rival gangs. Casa Alianza reported the deaths of four youths in prisons and juvenile detention centers. Prison authorities attempted to hold prisoners of opposing gangs in different facilities or in different areas of the same prison to reduce inter-gang tensions and violence.

At year's end no charges had been filed, and there were no further developments, in the investigation of the May 2004 fire at the San Pedro Sula prison that killed 107 gang members.

There were no further developments in the pending court cases of 51 persons charged in 2004 with murder and other criminal offences for alleged involvement in the deaths of 68 persons in 2003 at El Porvenir prison near La Ceiba.

Due to the government's failure to allocate resources for alternative facilities, prisons held persons with mental illnesses, as well as those with tuberculosis and other infectious diseases, among the general prison population. Human rights organizations accused prison officials of using excessive force against prisoners, including beatings, as well as isolation and threats.

Although women generally were held in separate facilities under conditions similar to those of male prisoners, female prisoners did not have conjugal visit privileges. At certain lower security prisons, women were held with the general population. Children up to age two were permitted to stay with their mothers in prison. Pretrial detainees generally were held together with convicted prisoners.

The government operated juvenile detention centers in Tamara (one for boys and one for girls), El Carmen (for boys) in San Pedro Sula, and in Jalteva (for boys) near Tegucigalpa, but sometimes detained minors with adult prisoners in adult prisons facilities.

During the year Casa Alianza and the Honduran Institute for Children and the Family (IHNFA) signed an agreement to use: \$52,910 (1 million lempiras) to develop a mental health program in youth rehabilitation centers, another \$52,910 (1 million lempiras) to create a scholarships program to reintegrate youth into society after incarceration or other detention; and \$9,524 (180 thousand lempiras) to complete a building in Choluteca for an IHNFA office to manage issues of children in conflict with the law. By November Casa Alianza had received a check for \$52,910 (1 million lempiras) to begin undertaking these projects.

There were no further developments in the 2004 negotiations between the government and Casa Alianza regarding Casa Alianza's complaint to the Inter-American Court of Human Rights regarding four minors tortured in a Comayagua prison in 1995.

The government generally permitted prison visits by independent local and international human rights observers, and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, but the authorities at times failed to observe these prohibitions.

Role of the Police and Security Apparatus.—The Ministry of Public Security oversees police operations, including those of the Preventive Police, Dirrecion General de Investigaciones Criminal (DGIC), Transit Police, Frontier Police, Tourist Police,

and Prison Police. Police lacked training and funding, and were understaffed. Corruption was a serious problem. The Ministry of Public Security reported that from 2000 through August, 186 police officials had been prosecuted and 1,344 had been fired for reasons ranging from incompetence to corruption. There was widespread public concern regarding the perceived inability of the security forces to prevent and control crime, and the public continued to believe that corrupt security personnel were complicit in the high crime rate.

During the year police and military continued joint patrols of the streets. Gang violence and intimidation remained serious problems, and gangs continued to harass, threaten, and rob passengers on public transportation, causing the government to station security officers on many public buses. Perpetrators of killings against youth and minors, including in some instances police, continued to act with impunity.

The Office of Internal Affairs investigates allegations of illegal activities committed by members of the police force. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR) that conducts internal reviews of police misconduct.

The NGO CODEH continued government-funded programs to train staff of the Prison Police to avoid committing acts of torture. During the year police and military officials took human rights training provided by international donors.

Arrest and Detention.—The law states that police may arrest a person only with a court order, unless the arrest is by order of a prosecutor, made during the commission of a crime or when there is strong suspicion that a person has committed a crime and may try to evade criminal prosecution, or is caught with evidence related to a crime. Police must clearly inform the person of the grounds for the arrest. Police must bring a detainee before a competent authority within 24 hours. The prosecutor has 24 hours to decide if there is probable cause for an indictment, and a judge then has 24 hours to decide whether to issue a temporary detention order that can last up to 6 days. Within this time period, a pretrial hearing must be held for the judge to examine probable cause and make a decision on whether or not pretrial detention should continue. The law provides for bail for persons charged with felonies. The law also provides for prisoners to have prompt access to family members. Although the law provides that prisoners have prompt access to a lawyer of their choice and that the state affords legal counsel for indigent prisoners, these requirements were not always followed in practice.

There were no reports of political detainees.

Lengthy pretrial detention was a serious problem. During the year approximately 63 percent of the prison population awaited trial. The law mandates the release from prison of any detainee whose case has not come to trial and whose time in detention exceeds the maximum prison sentence for the crime of which he is accused. Due to judicial inefficiency and corruption and lack of sufficient resources allocated by the government, many pretrial detainees already had served time in prison equivalent to the maximum allowable for the crime for which they were accused. Many prisoners remained in jail after being acquitted or having completed their sentences due to the failure of responsible officials to process their releases.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judicial system was poorly funded and staffed, inadequately equipped, often ineffective, and subject to patronage, corruption, and political influence.

Low wages and lack of internal controls rendered judicial officials susceptible to bribery, and powerful special interests still exercised influence in the outcomes of court proceedings.

During the year 74 percent of approximately 221,000 cases pending under court procedures organized in 2004 were purged. The law requires backlogged cases to be resolved by 2006.

There are 12 appeals courts, 77 courts of first instance with general jurisdiction, and 330 justice of the peace courts with limited jurisdiction. The Supreme Court of Justice names all lower court judges. The media and various civil society groups expressed concern that the 8–7 split between the National and Liberal parties on the court resulted in politicized rulings by the Supreme Court of Justice.

Trial Procedures.—The law provides for the right to a fair public trial. Although the law provides that the accused is presumed innocent and has the right to an initial hearing by a judge, to bail, to consult with legal counsel in a timely manner, to have a lawyer provided by the state if necessary, as well as a right to appeal, the rights of defendants were not always observed.

Although the law prohibits cases from proceeding where a suspect lacks legal representation, the government allocated minimal resources to the public defender pro-

gram. As a result, the public defender was not able to meet the demand for legal assistance to those unable to afford representation.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Although the law generally prohibits such actions, a legal exception allows entry at any time in the event of an emergency or to prevent the commission of a crime. There continued to be credible charges that police personnel failed at times to obtain the needed authorization before entering a private home.

Garifuna and other indigenous rights leaders continued to complain that the government failed to redress previous actions by private and public security forces that dislodged farmers and indigenous groups who claimed ownership of lands based on land reform laws or ancestral titles to property (see section 5). Despite reforms to the civil service system, party membership often was necessary to obtain or retain government employment.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Although the law generally provides for freedom of speech and of the press, demonstrators are restricted from using statements that could incite persons to riot.

On May 19, the Supreme Court of Justice repealed a legal provision outlawing insult of public officials. Some journalists admitted to practicing self-censorship when their reporting challenged the political or economic interests of media owners.

A small number of powerful business magnates with intersecting commercial, political, and family ties owned most of the country's news media. The government influenced media coverage of its activities through the granting or denial of access to government officials. In May all three branches of the government and several private organizations continued the practice of granting awards, some accompanied by substantial sums of cash, to individual reporters, editors, cameramen, photographers, and editorial cartoonists on Journalists' Day. NGOs that monitor press freedom viewed these awards as an acknowledgment by the granting institutions of perceived services rendered. The government had considerable influence on the print media through granting or withholding official advertisements funded with public funds.

The news media continued to suffer from internal corruption, politicization, and outside influences. Ministers and other high-ranking government officials obtained press silence through hiring journalists as public affairs assistants at high salaries and paid journalists to investigate or suppress news stories.

When the news media attempted to report in depth on national politicians or official corruption, media members were sometimes denied access to government information. The NGO Reporters Without Borders reported that on November 15, the power cables of local radio station Virtud Stereo were cut with machetes allegedly by Liberal Party members, to suspend broadcasts that contained National Party advertisements during national elections.

On February 18, the Inter American Press Association (IAPA) submitted a letter to then president Maduro asking for immediate action to end hostile acts against the media by then president of the National Congress Porfirio Lobo Soso. The IAPA criticized Lobo's use of the media as a public forum to advocate for the elections law. The former Maduro government regularly used the Cadena Nacional to preempt all television and radio broadcasts to present presidential addresses. Legally, the heads of the executive, legislative, and judicial branches, as well as the president of the Supreme Electoral Tribunal, have access to use the Cadena Nacional. During the year, the president of Congress, who was also a candidate for the presidency, used the Cadena Nacional on several occasions.

During the year there were several reports of threats or lawsuits against journalists by powerful persons, including legal cases against journalists for their reports on corruption.

At year's end the March 2004 appeal by journalist Renato Alvarez to the Supreme Court of Justice remained pending. Alvarez was seeking an annulment of his sentence for defamation and slander.

In March 2004 an unknown assailant shot and injured journalist Edgardo Castro in San Pedro Sula. There was no indication that the assailant was motivated by Castro's role as a journalist. Police captured and detained two suspects at that time. An investigation was pending at year's end.

There were no further developments regarding the investigation into anonymous telephone threats received in November 2004 by Jhonny Lagos, the director of a new small independent monthly newspaper, *El Libertador*, and his family.

At year's end, there were no new developments, and none were expected, in the 2003 killing of journalist German Antonio Rivas.

The government did not restrict academic freedom or Internet access.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law generally provides for freedom of association, and the government generally respected this right.

Freedom of Association.—The law generally provides for freedom of association, and the government generally respected this right in practice; however, the criminal associations law prohibits illicit association and prescribes prison terms of 3 to 12 years (see section 4). During the year gay rights advocacy groups expressed concerns that the law prohibiting illicit associations could be used to criminalize social activities and organizations of the gay community. During the year the law prohibiting illicit associations was used to arrest individuals for being members of Mara Salvatrucha and other gangs.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The government prohibits immigration of foreign missionaries who practice religions that claim to use witchcraft or satanic rituals.

Societal Abuses and Discrimination.—There were no reports of discrimination or violence against religious groups including anti-Semitic acts. The Jewish population constituted approximately 100 persons.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law does not explicitly prohibit forced internal or external exile, but the government did not employ this practice during the year.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. During the year the government accepted eight Cuban refugees for resettlement. The government cooperated with the UN High Commissioner for Refugees, the International Office of Migration, and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage. Active members of the clergy and of the military and civilian security forces are not permitted to vote.

Elections and Political Participation.—In November national elections, which were described by international observers as generally free and fair, Jose Manuel Zelaya Rosales of the Liberal Party received a plurality of votes and became president-elect. Observers noted irregularities at approximately 1,100 ballot boxes but no systemic patterns of fraud.

Several Protestant ministers ran and won in the February primary elections, but the Supreme Electoral Tribunal declared their candidacies invalid for technical reasons prior to the general November elections, and they were replaced on the ballots.

Opportunities for women to participate in politics remained limited, particularly for those seeking elected office. During the year 32 women were elected as members in the 128-seat National Congress, which was the largest number of women ever elected to the legislature. There were 9 female justices, 1 of whom was president, on the 17-member Supreme Court of Justice.

There were few minorities or indigenous people in leadership positions in government or politics. For the first time in the country's history, there were 3 Garifuna (see section 5) congresspersons in the 128-seat legislature, but there were no members from other ethnic minority or indigenous communities.

Government Corruption and Transparency.—The executive and legislative branches were subject to corruption and political influence. During the year the government implemented an anticorruption policy based on institutional reforms and prosecution of public and private sector officials accused of corruption. There remained, however, a widespread perception among the public and international observers that the government's anticorruption institutions were unwilling or lacked

the professional capacity to investigate, arrest, and prosecute those involved in high-level corruption.

On May 1, Ramon Romero, director of immigration, was removed from his position, arrested, and charged with various counts of corruption. At year's end the case was pending trial and Romero remained under house arrest.

There were no laws permitting citizens to have access to information regarding government operations or decisions.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with these groups and were responsive to their views.

On September 12, Juan Almdares Bonilla, executive director of the NGO Center for the Prevention, Treatment and Rehabilitation of Torture Victims and Their Relatives (CPTRT) and the presidential candidate for the Democratic Unification Party, reported that two men accosted and intimidated him on the street and also that unknown individuals subsequently made threatening phone calls to Bonilla and his relatives. On September 19, unknown assailants attempted to break into the CPTRT office in Tegucigalpa.

There were no new developments in the pending investigation of the April 2004 killing of human rights activist Marvis Guelio Perez and the May 2004 assault of Jose Idalecio Murillo, a leader of the Regional Coordination of Popular Resistance.

The government cooperated with international organizations such as the International Committee of the Red Cross, but no visits by these organizations occurred during the year.

The National Human Rights Commission (NHRC), an autonomous government institution, was headed by Human Rights Commissioner Ramon Custodio Lopez. The NHRC director had free access to all civilian and military institutions and detention centers and functioned with complete immunity and without government or political party interference. The government generally cooperated with, but allocated inadequate financial or other resources to, the NHRC. There was no information available regarding any reports produced by the NHRC during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status. In practice, however, political, military, and social elites generally enjoyed impunity under the legal system.

Women.—Violence against women remained widespread. The law criminalizes domestic violence with imprisonment between two and four years. The law does not impose fines for domestic violence, and its only sanctions for violators are community service and 24-hour preventive detention if the violator is caught in the act. The law provides a maximum sentence of three years' imprisonment for disobeying a restraining order connected with the crime of intra family violence.

The government did not enforce the law effectively with regard to domestic abuse. During the year the Public Ministry received 5,891 reports of alleged domestic violence, resulting in 2,320 convictions; 3,571 cases remained under investigation. There were 2,040 reports of alleged intra family violence, a more serious crime under the law, with 1,034 cases prosecuted and 1,006 under investigation. There were 1,074 reports of rape, resulting in 466 convictions and 608 cases under investigation.

The government worked with CARE and other NGOS to provide specialized training to police officials on enforcing the law relating to domestic violence. There were two facilities that specifically provided physical shelter for battered women. Both shelters were operated by NGOs. The shelter in Tegucigalpa could accommodate 20 women and their families. Additionally, six other private centers for battered women offered legal, medical, and psychological assistance.

The penalties for rape range from 3 to 9 years' imprisonment, and the courts enforced these penalties in practice. Because all rapes, with the possible exception of spousal rape, which is evaluated on a case by case basis, are considered public crimes, a rapist can be prosecuted even if the victim does not want to press charges.

Whereas adult prostitution is legal and relatively widespread, the law prohibits promoting or facilitating for purposes of prostitution.

Women were trafficked for sexual exploitation and debt bondage (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace and provides penalties of one to three years' imprisonment. Sexual harassment continued to be a problem, but

the government did not effectively enforce the law. Despite legal protections against such practices, workers in the textile export industries continued to report that they were required to take pregnancy tests as a condition for employment.

The majority of women worked in lower status and lower paid informal occupations, such as domestic service, without legal protections or regulations. Women were represented in small numbers in most professions, and cultural attitudes limited their career opportunities. Under the law, women have equal access with men to educational opportunities. The law requires employers to pay women equal wages for equivalent work, but employers often classified women's jobs as less demanding than those of men to justify paying them lower salaries.

Whereas women and men are accorded equal rights under the law, including property rights in divorce cases, in practice women were not granted such rights.

The government maintained a cabinet-level position directing the National Women's Institute, which develops women and gender policy. Several NGOs actively addressed women's issues, including the Center for the Study of Women-Honduras, which dealt with trafficking in persons, commercial sexual exploitation, domestic workers, and other issues.

Children.—The government was committed to children's rights and welfare. The educational system, however, faced fundamental problems, including high dropout rates, low enrollment at the secondary level, unbalanced distribution of government spending, teacher absenteeism, and low quality of classroom education.

Although the law provides for free, universal, and compulsory education through the age of 13, the government estimated that as many as 118 thousand out of 1,146,195 children ages 6–11 did not receive any schooling during the year. According to a 2002 National Institute of Statistics (INE) study, the most recent available, only one of two students made it to the sixth grade.

Girls and boys had equal access to medical care.

Child abuse was a serious problem. The law establishes prison sentences of up to three years for persons convicted of child abuse. The Public Ministry received 646 reports of alleged crimes against children, including child abuse, with 183 cases tried and 463 cases under investigation at year's end.

Trafficking in children for commercial sexual exploitation and child prostitution were problems (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

The government was unable to improve the living conditions or reduce the numbers of street children and youth. The government and children's rights organizations estimated that during the year there were 20 thousand street children, half of whom had shelter. Many street children were sexually molested or exploited. The Tegucigalpa city administration operated 12 temporary shelters with a total capacity of 240 children. The NGO Casa Alianza operated 3 shelters for 160 children, 1 for victims of commercial sexual exploitation, 1 for street children, and 1 for children with substance abuse problems.

Abuse of youth and children in poor neighborhoods and in gangs remained a serious problem. Violence and deprivation of the basic necessities were constant issues. Members of the police and members of the general population engaged in violence against poor youth and children (see sections 1.a and 1.c). Human rights groups alleged that individual members of the security forces worked with civilian (including vigilante) groups and used unwarranted lethal force against supposed habitual criminals or suspected gang members, as well as against other youths not known to be involved in criminal activity. Press reports during the year noted that 431 children and young adults (age 23 and under) were killed. Casa Alianza indicated possible police involvement in a number of these incidents.

Several groups and families of the victims pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders. The Ministry of Public Security acknowledged that individual police officers had been investigated for participation in killings of street youth. By year's end international NGOs, including CARE, and foreign government donors had provided training in domestic violence, and other human rights problems for police and armed forces units.

From July 2003 through December, the Special Investigative Unit on Child Killings had received 980 cases, 190 of which were forwarded to the Public Ministry for prosecution with the remaining 790 under investigation. Of the 190 cases forwarded to the Public Ministry, gang members were thought to be responsible in 44 percent of the cases, other private individuals in 44 percent of the cases, and police or other government officials in 12 percent of the cases.

The law outlaws illicit association, including gang and organized crime membership, and prescribes prison terms ranging from 3 to 12 years, depending on the individual's level of involvement and seniority. Through November 364 persons were de-

tained for illicit association. Human rights organizations continued to criticize the law and its implementation. Year-end statistic indicated that there were approximately 30 thousand to 40 thousand persons, many of them minors, belonging to gangs in the country. Membership was primarily confined to the Tegucigalpa and San Pedro Sula areas. The Mara Salvatrucha (MS 13) and the Mara 18 were the largest and most violent of the gangs and accounted for approximately 40 percent of gang membership countrywide.

Trafficking in Persons.—The country was a source and transit point for trafficking in persons. In addition there was internal trafficking in persons.

Although there is no comprehensive antitrafficking law, various provisions in penal, child exploitation, and immigration statutes criminalize trafficking and enable the government to prosecute traffickers. The law provides for sentences of between six and nine years' imprisonment. The penalty is increased if the traffickers are government or public employees, or if the victim suffers loss of liberty or is killed.

The government's General Directorate for Population and Migration was responsible for enforcing the country's immigration laws but had no arrest powers. Many of the government's antitrafficking measures were conducted in the context of combating the illegal movement of migrants. Corruption, insufficient governmental allocation of personnel and other resources, and administrative weaknesses among the police and court system undermined enforcement efforts. There were 13 prosecutors in Tegucigalpa, 5 in San Pedro de Sula, and 2 in La Ceiba that formed part of the Office of the Special Prosecutor for Children, along with 8 special child abuse investigators in Tegucigalpa, 4 of whom focused on sexual and commercial exploitation of minors. Some officials were investigated and dismissed for corruption.

On January 20, 3 of 10 members of an international human trafficking ring that lured women into commercial sexual exploitation abroad were arrested in the country. Another 7 members of the ring were arrested in the US, where 2 individuals pled guilty, one for harboring and the other for trafficking. The trial in the US was re-scheduled for 2006. At year's end the three defendants detained in the country were awaiting a preliminary hearing. There was also an outstanding warrant for the arrest of the individual who procured the women for the trafficking operation.

On May 28, police rescued four girls and arrested three individuals for trafficking girls into Guatemala. The investigation leading to the arrests occurred after parents filed a police report regarding their missing daughters. At the end of year the Public Ministry Special Prosecutor for Children prosecuting the case.

At year's end Maria Isabel Cruz Zamora, convicted in October 2004 of alien smuggling and trafficking in persons, remained a fugitive with an outstanding arrest warrant.

On February 23, a court sentenced 2 persons convicted of aggravated trafficking for sexual exploitation to 6 years' imprisonment, and 1 person of money laundering to 24 years' imprisonment; 2 elderly persons were released for insufficient evidence. The defendants were members of a family trafficking ring in Tocoa and had been arrested in 2003 for trafficking.

By year's end the Public Ministry estimated that there were 14 convictions and approximately 50 ongoing cases of commercial sexual exploitation pending convictions, including 8 cases scheduled for trial, 3 cases awaiting a hearing, and 7 cases under investigation for further consideration.

During the year the government cooperated with North Americans, Mexican, Guatemalan, and Belizean governments to identify and repatriate minors. The government, along with agencies of the Nicaraguan and Guatemalan governments and NGOs, met in August in Copan to discuss regional cooperation against trafficking and commercial sexual exploitation. The Office of the Special Prosecutor for Children worked with its Guatemalan counterpart to locate and repatriate children that were trafficking victims.

Women and children were trafficked into Guatemala and also internally, most often from rural to urban settings. The commercial sexual exploitation of children was a serious problem. As of October Casa Alianza estimated that there were approximately 10 thousand children who were victims of some form of commercial sexual exploitation. The Office of the Special Prosecutor for Children conducted 30 operations jointly with the police, the Honduran Institute for Children and the Family (IHNFA), judges, and Casa Alianza, to rescue victims and arrest and prosecute those responsible for these victims' exploitation.

Most trafficking victims were young women and girls, who were trafficked to Guatemala, Belize, El Salvador, Mexico, the United States, and Canada for sexual and labor exploitation. Traffickers were reportedly locals as well as Guatemalan, Mexican, and in some cases Chinese or Taiwanese nationals. In a majority of cases, traffickers posed as *coyotes* (alien smugglers), claiming to facilitate border crossings and

help immigrants enter other countries in Central America, Mexico or the US. In some cases victims were promised lucrative jobs but instead were forced into commercial sexual exploitation, drug trafficking, or debt bondage.

The government, in conjunction with UNICEF, conducted 10 public information campaigns against trafficking and commercial sexual exploitation, and raised awareness of children and women's rights and risks associated with illegal migration.

The government and Casa Alianza, along with other NGOs, held 17 training seminars on the prevention and eradication of the commercial sexual exploitation of children and trafficking in women and children. Through these seminars the Public Ministry trained a total of 740 justice officers.

The government did not provide assistance to foreign victims of trafficking and did not provide funding to NGOs that helped trafficking victims. IHNFA was responsible for dealing with repatriated minors upon their arrival in the country.

Persons with Disabilities.—The law does not require access to buildings for persons with disabilities, and there are no general statutory protections for persons with mental or physical disabilities except that it is illegal for an employer to discriminate against a worker based on disability. During the year there were no reports of discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The Public Ministry was responsible for protecting the rights of persons with disabilities.

Indigenous People.—Approximately 621 thousand persons, constituting 9 percent of the general population, were members of indigenous and other ethnic groups. These populations, including the Miskitos, Tawahkas, Pech, Tolupans, Lencas, Chortis, Nahual, Islanders, and Garifunas, lived in 362 communities and generally had little or no political power to make decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Most indigenous lands were owned communally, providing land use rights to individual members of the ethnic group. Indigenous land titles often were defined poorly in documents dating back to the mid-19th century. Lack of clear title fostered encroachment and appropriation conflicts with landless nonindigenous settlers and with powerful business elites and government entities interested in exploiting coastlines, forests, and other lands traditionally occupied or utilized by indigenous and other ethnic groups. Indigenous and nonindigenous communities criticized the government's alleged complicity in the exploitation of timber and other natural resources on these lands.

By year's end there were several protests by indigenous groups regarding land rights disputes and perceived government discrimination. On June 7 and September 15, the Consejo Nacional Indigena Maya Chorti, a Chorti indigenous rights group, seized the Mayan ruins of Copan and held demonstrations to force the Maduro administration to fulfill commitments made by the government in 1997 to purchase land and transfer legal title to the Chorti community. Although the then president Maduro publicly agreed to fulfill the government's promise, at year's end the Chorti community was awaiting the purchase and transfer of the disputed lands.

Garifuna leaders also continued to petition the government regarding their concerns about large-scale commercial development undertaken on coastal lands traditionally occupied and utilized by their communities. The government permitted tourism development by private local and foreign business interests on the disputed lands using 100-year leases designed to revert to the Garifuna after the expiration of that period of time. During the year Garifuna leaders reported harassment, threats, and assaults, including the suspicious shooting of one of their spokespersons (see section 1.c.). Many Garifuna rights activists continued to oppose the government's attempts to provide individual land titles to community members on lands traditionally held in common by the Garifuna people.

The government undertook minimal efforts to work with indigenous groups to address concerns regarding ownership and use of traditional lands.

The courts commonly denied legal recourse to indigenous groups and often favored nonindigenous parties of means and influence. Failure to obtain legal redress frequently led indigenous groups to attempt to regain land through invasions of private property, which gave the authorities occasion to retaliate forcefully.

Human rights organizations, including Amnesty International, continued to complain about alleged poor treatment, police beatings, and denial of adequate medical care for indigenous brothers Marcelino Miranda Mendoza and Leonardo Miranda Mendoza, members of the Civic Council of Indigenous and Popular Organizations of Honduras. Jailed in 2003, the brothers were later convicted and sentenced during that same year to 29 years in jail for the 2001 murder of Juan Reyes Gomez. In 2003 the Supreme Court of Justice overturned the sentence for Gomez's murder and

ordered the appeals court to reconsider the case. However, the two indigenous brothers continued to remain in jail, and there were no further developments in their case at year's end. On June 6, indigenous leader Feliciano Pineda was arrested in connection with the 2001 killing of Juan Reyes Gomez. In December Pineda was acquitted but remained in prison on other charges, including theft, damages to property, and home invasion allegedly connected with the killing (see section 1.a.).

Other Societal Abuses and Discrimination.—Job-related age discrimination was a serious problem. There were no discriminatory laws based on sexual orientation, but in practice social discrimination against persons based on sexual orientation was widespread. Representatives of the sexual diversity rights NGOs Violet Collective, the San Pedro Gay Community, Kukulcan, and the Transvestite Sex Workers Collective of San Pedro Sula asserted that their members regularly experienced abuses, beatings, killings (see section 1.a.), and other physical and verbal mistreatment from authorities. They also asserted that there was anti-gay discrimination by security forces and government agencies, and that employers used illegal discriminatory hiring practices. These groups also reported that due to intimidation, fear of reprisal, and police corruption, gay and lesbian victims of abuse were reluctant to file charges or proceed with prosecutions.

The NGO Red de Hombres Gay Positivos alleged that employers routinely ignored antidiscrimination employment laws and used testing supposedly for syphilis among employees and job applicants as a means to detect HIV status so as to weed out persons testing positive. The NGO also alleged that some Protestant churches fueled prejudice against HIV positive persons.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of workers to form and join unions of their choice, and workers exercised this right in practice. Members of the armed forces and the police force are prohibited by law from forming labor unions. The law prohibits public service employees from presenting union-organizing petitions or participating in collective bargaining. According to July statistics from the Ministry of Labor, approximately 8 percent of the work force, excluding the agriculture sector, and approximately 13 percent of the 133 thousand maquiladora work force was unionized.

The law prohibits more than 2 trade unions to coexist at a single enterprise, requires 30 or more workers to constitute a trade union, prohibits foreign nationals from holding union offices, requires that union officials be employed in the economic activity of the business the union represents and restricts unions in agricultural enterprises with less than 10 employees.

A number of private firms continued to maintain solidarity associations that provided credit and other services to workers who were members of these associations. Representatives of organized labor groups criticized these associations, asserting that they do not permit strikes, have inadequate grievance procedures, are meant to displace genuine, independent trade unions, and are employer-dominated.

Whereas the law prohibits retribution by employers for engaging in trade union activity, retribution was a common practice with employers threatening to close unionized companies, harassing, or dismissing workers seeking to unionize. Some foreign companies closed operations when notified that workers sought union representation.

The Ministry of Labor can reach administrative decisions on allegations of unfair dismissal and fine companies, but only a court can order reinstatement of workers. If the court orders an employer to reinstate workers fired for engaging in union activity, under the law, the company or employer is required to comply with the ruling. In practice, however, reinstatement of workers was a serious problem, and employers often failed to abide by court orders for reinstatement.

Although the law prohibits blacklisting, there was credible evidence that maquiladora employers used blacklisting of employees seeking to form unions. A number of maquiladora workers allegedly fired for union activity were hired for one or two weeks and then dismissed with no explanation. Maquiladora employees reported seeing computer records that included previous union membership in personnel records. Some employers informed previously unionized workers that they were unemployable because of their previous union activity.

The Ministry of Labor did not always provide effective protection to labor organizers due to corruption and unethical behavior of inspectors, including the selling of names of employee union organizers to company management before government recognition of the union.

More than 30 maquiladora workers asserted that they were given an ultimatum by management and fired on February 23 for trying to form a union at their workplace at the Olga de Villanueva company. According to information from the Min-

istry of Labor, on June 16, the workers were relocated by management to Hamlet Manufacturing company. The employees filed a complaint with the United Confederation of Worker of Honduras as well as with the Ministry of Labor. At year's end the case was under investigation by the Ministry of Labor.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and to bargain collectively, and the government protected this right in practice. Although the law requires that an employer begin collective bargaining once workers establish a union, employers often refused to engage in bargaining.

The law provides for the right to strike, and workers exercised this right in practice. The law, however, prohibits strikes in a wide range of economic activities deemed essential services and any others that in the government's opinion restrict individual rights to security, health, education, economic or social life. The identified essential services include , air and water transportation, electrical energy production, telecommunications, hospitals and clinics, refuse collection and cleaning services, production of primary necessities affecting public services, social and charitable associations, animal and plant hygiene and scientific investigation of illnesses, as well as petroleum production, refining, transport, and distribution.

The ILO criticized the law's denial of the right to strike to workers in the petroleum sector and to all government workers, other than employees of state-owned enterprises. At times civil servants engaged in illegal work stoppages without experiencing reprisals. In such cases, however, the Ministry of Labor has the power to declare the protest illegal at the request of the employer or public service sector management and dismiss the protesting workers. The following legal restrictions applied to strikes: a prohibition on labor federations and confederations from calling strikes, and a requirement that a two-thirds majority of the votes of the total membership of the trade union call a strike, rather than a simple majority.

The same labor regulations apply in the export processing zones (EPZs) as in the rest of private industry, with the exception that that the law provides additional restrictions on strikes in EPZs. There were 44 free zones established in the country and 18 industrial parks operating as EPZs. An additional 26 companies had their own free zones, outside of the industrial parks. In the absence of unions and collective bargaining, several companies in the EPZs instituted solidarity associations that, to some extent, functioned as company unions for the purposes of setting wages and negotiating working conditions. Other EPZ companies used the minimum wage to set starting salaries and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria.

c. Prohibition of Forced or Compulsory Labor.—Although the law generally prohibits forced or compulsory labor, including by children, it permits compulsory labor for convicted criminals. Additionally, there were credible allegations of compulsory overtime at maquiladora plants, particularly for women, who comprised approximately 65 percent of that sector's workforce.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law regulates child labor and provides that minors under age 16 or students ages 16 and older cannot work, unless authorities determine that the work is indispensable for the family's income and will not conflict with schooling. The constitution establishes the maximum hours worked for children under 17 years as 6 hours daily and 30 hours weekly. By law, parents or a legal guardian can request special permission from the labor ministry to allow children between the ages of 14 and 15 to work, as long as the ministry performs a home study to ensure that the child demonstrates economic necessity to work and that the child will not work outside of the country or in hazardous conditions, including offshore fishing. In practice, the labor ministry conducted only a limited number of home studies.

The law prohibits night work and overtime for minors under age 16, and requires that employers in areas with more than 20 school-aged children working at their business facility provide a location for a school. In practice, the vast majority of children worked without ministry permits.

The Ministry of Labor did not enforce effectively child labor laws outside the maquiladora sector, and there were frequent violations of the child labor laws in family farming, agricultural export, including the melon, coffee, and sugarcane industries, and in small-scale services and commerce. Many children worked out of economic necessity alongside other family members.

A 2004 survey by the National Institute of Statistics (INE) managed by the ILO's International Program on the Elimination of Child Labor (IPEC) determined that approximately 359,752 children, constituting 14 percent of children between the ages of 5 and 18, worked either part-time or full-time. Many boys between the ages of 13 and 18 worked as lobster divers with little safety or health protection. Chil-

dren who worked on melon and sugarcane farms were exposed to pesticides and long hours. Although garbage disposal sites were legally off limits to children, there were large numbers of minors working at these locations.

Casa Alianza conducted a study in 20 cities of the country and found that 10 thousand children were victims of commercial sexual exploitation crimes or trafficking in persons (see section 5).

There were isolated cases of children under the legal working age working in the maquiladora sector. Younger children sometimes obtained work permits by fraud or purchased forged permits.

The Ministry of Labor continued a campaign to increase industry awareness on the worst forms of child labor. The IPEC program identified the worst forms of child labor in the country as commercial sexual exploitation particularly in tourist areas along the North Coast, fireworks production, offshore diving from boats for commercial lobster fishing, limestone quarrying and lime mining, garbage dump picking, melon and other commercial agriculture production involving handling of pesticides, wood-cutting in saw mills and construction activities.

By year's end the government had undertaken a number of social and educational programs to reach at-risk children, including a school grant program of the Ministry of Education to provide money for school supplies for very poor families, and an alternative schooling program using radio and long-distance learning for children in distant rural areas with few schools. Government measures had minimal impact on diminishing child labor in light of extreme poverty, famine conditions in rural areas, and a lack of jobs for school graduates.

e. Acceptable Conditions of Work.—The daily minimum wage scale, which was updated during the year, is broken down by sector and size of business: small (1–15 workers) and large (16 or more workers). The scale ranges from \$3.24 (61.3 lempiras) for workers in small agriculture to \$5.17 (97.8 lempiras) for workers in financial and insurance companies and workers in export-oriented businesses, including maquiladoras and commercial agriculture, such as tobacco, coffee, bananas, and seafood production. Workers in areas such as construction, services, mining, transportation, communication, etc., had minimum wages between these two rates. The minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Labor and the Minimum Wage Commission were responsible for enforcing the minimum wage.

The law prescribes a maximum a 44-hour workweek and at least one 24-hour rest period for every 6 days of work. The law requires overtime payment for hours in excess of the standard, and there are prohibitions on excessive compulsory overtime. Employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor. Foreign workers enjoyed equal protection under the law, although the process for a foreigner to obtain a work permit from the Ministry of Labor was cumbersome.

The Ministry of Labor was responsible for enforcing national occupational health and safety laws, but did not do so consistently or effectively. Worker safety standards were enforced poorly, particularly in the construction industry and in agriculture production activities. There were complaints that foreign factory managers in EPZs and other private industrial facilities failed to comply with occupational health and safety regulations (see section 6.b.). Workers in pineapple production and other commercial agriculture enterprises alleged blacklisting by employers if they made complaints to the authorities about working conditions. During the year the Ministry of Labor engaged in some training of labor inspectors to integrate and unify inspection capacity. The ministry also undertook with the National Autonomous University of Honduras a technical assistance workshop diploma course on workplace risk prevention that trained 24 inspectors.

The NGO Association of Crippled Mosquito Divers filed a case with the Inter-American Commission on Human Rights to pressure the government to adhere to a July 2004 agreement with the association mandating that employers create better working conditions for divers, including use of safe diving equipment to minimize the high incidence of serious disabilities and death suffered by divers.

The law does not provide workers with the right to leave a dangerous work situation without jeopardy to continued employment.

JAMAICA

Jamaica is a constitutional parliamentary democracy with a population of approximately 2.7 million. In the generally free and fair 2002 elections, Prime Minister P.J.

Patterson's People's National Party (PNP) won 34 of the 60 seats in the House of Representatives. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were serious problems in some areas:

- unlawful killings committed by members of the security forces
- mob violence against and vigilante killings of those suspected of breaking the law
- abuse of detainees and prisoners by police and prison guards
- poor prison and jail conditions
- continued impunity for police who commit crimes
- an overburdened judicial system and frequent lengthy delays in trials
- violence and discrimination against women
- trafficking in persons
- violence against suspected or known homosexuals

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—While the government or its agents did not commit any politically motivated killings, security forces committed some unlawful or unwarranted killings during the year.

The police frequently employed lethal force in apprehending criminal suspects, which resulted in 180 deaths (including 13 police officers) compared with 119 deaths (including 11 police officers) in 2004. While allegations of “police murder” remained frequent, the validity of some allegations was suspect. The country faced a critical crime situation with a homicide rate exceeding 62 per 100 thousand persons, the highest in its history. Well-armed gangs that trafficked in narcotics and guns controlled many inner-city communities. The gangs often were equipped better than the police force and conducted coordinated ambushes of joint security patrols.

On June 19, Amnesty International (AI) reported that no Jamaica Constabulary Force (JCF) officer had been convicted of murder in the last six years, and that police are “immune from effective prosecution and are allowed to carry out killings with impunity.”

On August 19, in Kingston, police killed 16-year-old Jeff Smellie who was reportedly returning from visiting his grandmother in the hospital. Police reported that the youth was involved in a shootout.

On December 30, police reportedly shot two men in Portmore, St. Catherine. Police stated there was a shootout that resulted in their deaths. Neighbors and family alleged the two men were killed in their sleep, dragged out of the house, and put in police jeeps. The Bureau of Special Investigations (BSI) was investigating the incident.

Following a BSI investigation into the March 2004 police killing of three men in Burnt Savannah, Westmoreland, the case was transferred to the Department of Public Prosecutions (DPP). At year's end the case was before the coroner's court to determine whether criminal charges should be brought against any members of the JCF.

Similarly, the BSI concluded its investigation into the September 2004 killing by Jamaica Defense Force (JDF) soldiers of Sandra Sewell and Gayon Alcott in August Town, St. Andrew, and transferred the case to the DPP. At year's end the coroner's court was to decide whether criminal charges should be brought against any members of the JDF.

The BSI also concluded its investigation into the December 2004 police killing of 15-year-old Donovan Hayles and 7-year-old Shakeira Thompson in Old Braeton, St. Catherine, and sent the case to the DPP. At year's end the case was with the DPP, and no formal charges had been made.

Six members of the JCF's disbanded Crime Management Unit, including Senior Superintendent Reneto Adams, were charged in connection with the 2003 killing of four people at a home in Crawle, Clarendon. On December 12, the judge found that the prosecution failed to make a prima facie case against three of the officers and ordered the jury to free them. On December 20, the jury found the remaining three officers not guilty. At year's end it was anticipated that the officers would be back at their jobs early in 2006.

Following a BSI investigation, authorities brought charges of killing and intent to injure against five police officers for the 2003 police killing of two elderly men in the community of Flankers, St. James. The government accepted liability and

agreed to compensate the family of one of the victims in the amount of approximately \$80 thousand (J\$4.75 million). The trial was expected to begin in 2006.

In 1999 Michael Gayle died two days after being injured by the security forces. Authorities admitted that he was killed unlawfully and issued a public apology in March 2004. The government also paid the family approximately \$48 thousand (J\$2,886,265) in compensation for Gayle's death. On October 24, the Inter-American Commission on Human Rights published its report on the case, which found that the government's remedy and investigation into the case were insufficient. This caused renewed public debate about the DPP's finding that there were no officers who could be charged in connection with the case.

On February 11, a trial judge acquitted the six police officers charged in the 2001 killing of seven youths in Braeton, St. Catherine. The court freed the officers after it determined that the prosecution had failed to make a prima facie case against the officers.

In the case of the 2000 police killing of Janice Allen, her family appealed the dismissal of the case against the responsible police officer and was awaiting a court date at year's end.

During the year at least three detainees died while in police custody. In addition a March 31 escape attempt at Kingston's maximum security prison resulted in the deaths of three inmates. There was no evidence of negligence.

Vigilantism and spontaneous mob killings in response to crime continued to be a problem. There were at least 20 vigilante killings during the year, with varying motives. On April 4, a mob in the parish of Trelawny killed two men accused of stealing yams. Human rights advocates contended that police did not consider such killings a priority and expressed concern that the perpetrators rarely were charged.

In November unknown assailants kidnapped and killed Lenford "Steve" Harvey, a homosexual man who operated Jamaican AIDS Support for Life (see section 5).

b. Disappearance.—There were no reports of politically motivated disappearances.

In December 2004 police allegedly abducted two men in Kingston. Witnesses reported that two members of the JCF Organized Crime Unit handcuffed and took two men into custody. At year's end, authorities had charged one police officer with false imprisonment, but his trial was postponed. The victims had not been found.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, reports of physical abuse of prisoners by guards continued, despite efforts by the government to remove abusive guards and improve procedures. On August 9, the Department of Correctional Services announced that it had discharged 16 correctional officers for misconduct. At year's end the department, in conjunction with the police, was investigating alleged criminal activities of the fired correctional officers, including trafficking of contraband, abuse of inmates, missing ammunition, and assisting with prison escapes.

A former prison doctor for the St. Catherine Adult Correction Center in Spanish Town publicly alleged at a St. Catherine parish council meeting and in a letter to the commissioner of corrections that mass rapes, particularly of mentally ill inmates and inmates serving time for nonviolent offenses, occurred at the prison during the year. The doctor also alleged that prison guards and some inmates were involved in "renting out" the victims for sex with other inmates. The Ministry of National Security agreed to investigate the allegations.

On February 17, the Supreme Court ordered the government to pay \$50 thousand (J\$3 million) in damages for the "oppressive and unconstitutional" conduct by a policeman who shot and injured 36-year-old electrician Esrick Morgan in 1998.

On March 9, a Supreme Court judge, in assessing damages against the government, described the conduct of a policeman who gave a prisoner a knife to wound another while in custody as "outrageous." The injured man was awarded \$20 thousand (J\$1.2 million) with interest in damages.

There were no developments in the case of six police officers accused of raping a prostitute in Negril, Westmoreland in March 2004.

Prison and Detention Center Conditions.—Prison conditions remained poor, primarily due to overcrowding and poor sanitary conditions. The Department of Correctional Services took measures during the year to improve catering services and medical care for inmates. A March 31 escape attempt at Kingston's maximum security prison was foiled but resulted in the deaths of three inmates and one prison guard. The media labeled the event a riot.

Men and women were incarcerated in separate facilities under similar conditions, except that women's prisons were generally not overcrowded.

Although the law prohibits the incarceration of children in adult prisons, some juveniles were held with adults, particularly when juvenile facilities were filled to ca-

capacity. The majority of pretrial detainees were held in police custody, either in police stations or in remand centers, generally separate from convicted prisoners.

In general the government allowed private groups, voluntary and religious organizations, local and international human rights organizations, and the media to visit prisons and monitor prison conditions, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—The law permits the arrest of persons “reasonably suspected” of having committed a crime. While the law prohibits arbitrary arrest, security forces performed “cordon and search” operations, during which they detained persons and took them into custody for processing. Arrests normally require warrants signed by a police officer of the rank of station sergeant or higher; however, arrests may be made without warrants.

Role of the Police and Security Apparatus.—The JCF had primary responsibility for internal security and was assisted by the Island Special Constabulary Force. The JDF was charged with national defense, marine narcotics interdiction, and JCF support. The JDF had no mandate to maintain law and order and no powers of arrest (with the exception of the JDF Coast Guard in the maritime domain) unless so ordered by the prime minister. The Jamaica Regiment (JDF infantry forces) was detached as part of a joint internal security operation to assist the JCF in patrolling certain communities. The prime minister occasionally authorized the JDF to cordon and search with the JCF. The Ministry of National Security oversaw the JCF and the JDF.

The JCF is headed by a commissioner who delegates authority through the ranks to its constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. Faced with a rapidly increasing rate of killings, the JCF generally was not effective. The country experienced the highest level of violent crime in its history, and the perception of corruption and impunity within the force was a serious problem that contributed to a lack of public confidence in the institution. Human rights groups identified systematically poor investigative procedures and weak oversight mechanisms.

On March 1, Mark Shields joined the JCF as deputy commissioner of police in charge of crime. Shields, a 29-year veteran of the London Metropolitan Police, was the first foreign police officer to join the JCF. Shields was hired for a period of four years with primary responsibility to reduce the homicide rate.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF’s BSI, which employed 21 investigators, specifically addresses police shootings. The BSI completed investigations of 521 shooting incidents during the year and sent them to the DPP. The DPP ruled on 333 cases and sent 21 to criminal courts. No officer was found criminally liable during the year. The BSI supplemented the JCF Office of Professional Responsibility, which investigated police corruption and other misconduct, and the civilian Police Public Complaints Authority, which oversaw investigations by the other two bodies and could initiate its own investigations.

The JCF continued an initiative of community policing to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. During the year JCF officers were assigned to targeted schools as school resource officers to stem school violence and serve as liaison between the students, faculty, parents, and the police. The police academy includes training for policemen on citizens’ rights and human rights. In September the government completed distribution of human rights materials to 23 primary schools across the country; the program was developed jointly by the government and the Independent Jamaica Council for Human Rights.

Human rights advocates contended that police did not consider killings by vigilante mobs a priority and expressed concern that the perpetrators rarely were charged (see section 1.a).

Arrest and Detention.—The law requires detained suspects to be charged or released within 24 hours of arrest. The law also requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial), if requested by the detainee, upon detention; however, the authorities continued to wait until after detainees had been identified in an identification lineup before contacting duty counsel for them. There was a functioning bail system, but the police publicly criticized the courts for being too lenient in granting bail to serious criminals. The judiciary responded that it was the responsibility of parliament to toughen laws on bail. The state provides indigent detainees access to counsel through the legal aid program, and detainees were provided with prompt access to family members.

There were reports of arbitrary arrest during the year, and the authorities continued their “cordon and search” policy in neighborhoods where it was believed certain

suspects may be present. During these operations, conducted by the JCF sometimes in conjunction with the JDF, authorities detained groups of people and took them to a police station or other safe area where they were processed and held until it could be determined whether they were the suspect the police were looking for. By law, unless special permission is granted by a Justice of the Peace or a Resident Magistrate, persons must be released within 24 hours if they have not been charged with a crime.

There were no reports of political detainees.

Although the law requires police to present a detainee in court within a reasonable time period, in practice authorities continued to detain suspects for lengthy periods (often up to two or three years), which the government attributed to an overburdened court system (see section 1.e.). Magistrates were required to inquire at least once a week into the welfare of each person listed by the JCF as detained.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. However, the judicial system was overburdened and operated with inadequate resources.

The judiciary's lack of sufficient staff and resources hindered due process, and the BSI also had a large backlog. Trials in many cases were delayed for years, and other cases were dismissed because files could not be located or had been destroyed. A night court had some success in reducing the backlog of cases. The Supreme Court used mediation through the Dispute Resolution Foundation as an alternative to traditional trials, which alleviated some of the backlog in that court. The resident magistrate's courts also used alternative dispute resolution in limited cases.

There was a general lack of confidence in the police's witness protection program, which led to the dismissal of a number of cases involving killings. In a culture where it was widely believed that "informers will die," some criminal trials were dismissed because witnesses failed to come forward as a result of threats and intimidation. Some of those who came forward qualified for the witness protection program, but many either refused protection or violated the conditions of the program.

The court system consists of justices of the peace at the lower end. Resident magistrate's courts handle civil and criminal cases, while the Supreme Court has unlimited jurisdiction in civil and criminal matters. Defendants have the right to appeal a conviction in any of the three trial courts to the court of appeal, which is the highest court in the country. The Privy Council in the United Kingdom is the final court of appeal.

Trial Procedures.—Most trials are public and use juries. Defendants are presumed innocent, have the right to counsel, and have the right to confront witnesses against them. Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. The public defender may bring cases for persons who have had their constitutional rights violated. Although the Public Defender's Office contracted private attorneys to represent clients, funds were insufficient to meet the demand, and such attorneys sometimes requested payment from clients.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Although the constitution prohibits such actions, the revised Constabulary Force Act gives security personnel broad powers of search and seizure. This act allows search without a warrant of a person on board or disembarking from a ship or boat, if a police officer has good reason to be suspicious. In practice the police conducted searches without warrants. There were no allegations of unauthorized wiretapping by the police. In May 2004 businessman and political activist Paul Burke made public a letter that he addressed to the police commissioner and chief justice arguing that the judicial authorization to tap his phones was an attempt by his enemies to smear him for political reasons. There was no public government reaction to his letter.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet.

The independent media were active and expressed a wide variety of views without restriction. However, some local media professionals expressed concern that the country's libel law limited their freedom of expression. Specifically, news outlets reported the need to self-censor investigative reports because of the potential for courts to award high damages in cases of defamation.

On June 22, the attorney general threatened legal action against an AI official for comments the researcher made about an ongoing trial. The attorney general ar-

gued that the comments, made by e-mail to a news reporter, constituted contempt of court. The government had not pursued any legal action by year's end.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief or were due to the group's illegal use of marijuana as part of Rastafarian religious practice.

There was a small practicing Jewish congregation in the country. There were no reports of societal abuses or discrimination, including anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and there were no reports that it occurred.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and handled refugee or asylum cases administratively. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The authorities granted political asylum to 17 Haitian nationals during the year.

The government provided temporary protection to 402 individuals who did not qualify as refugees under the UN treaties. Over 135 individuals were voluntarily repatriated, and 434 individuals were involuntarily repatriated. The government, with the assistance of UNHCR, provided nine Haitians with temporary protection and resettlement. Immigration officers interviewed all Haitians who arrived during the year and determined that none qualified for refugee status. All Haitians who arrived during the year were repatriated, except one family that was allowed to remain to seek medical care. Of the Haitians denied refugee status in 2004, 28 appeals were pending, and trials were being scheduled at year's end.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

Elections and Political Participation.—All citizens age 18 and over have the right to vote by secret ballot. However, in recent elections voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties often faced substantial influence and pressure from politically connected gangs and young men hired by political parties, which impeded the free exercise of their right to vote.

In 2002 P.J. Patterson's PNP won 34 of the 60 seats in the popularly elected House of Representatives. The PNP holds 13 of the 21 seats in the appointed Senate.

There were 7 women in the 60-seat House of Representatives, and 5 women in the 21-seat Senate. Three of the 17 cabinet members were women.

Government Corruption and Transparency.—There was a widespread public perception of corruption in the executive and legislative branches of government, as well as in the ranks of the JCF.

On October 30, security forces in South Central St. Catherine killed Donovan "Bulbie" Bennett, the reputed leader of the "Clansman" gang and one of the JCF's most wanted men for more than 10 years. Following the incident, police accused PNP Member of Parliament (MP) Sharon Hay-Webster and her party of being "major supporters" of Bennett, who had been wanted in connection with nearly 100 killings, extortion, and other serious crimes in Spanish Town. Police Superintendent Kenneth Wade said that PNP support had helped fuel the criminal gang for years. The PNP denied the allegations, but the incident raised further questions about government involvement with known criminals.

In December 2004 the Senate noted the omission of party financing regulations as a gap in the 2003 Corruption Prevention Act. On December 9, parliament amended that act to close reporting loopholes for state employees. However, reports indicated that over five thousand civil servants failed to file declarations with the commission, or filed late or incomplete declarations.

The 2004 investigation into JLP MP Olivia Grange's relationship with Spanish Town gang leader Oliver Smith ceased, and no developments were expected. However, on October 6, Olivia Grange was involved in another shooting while riding in a car with Andrew Hope, who replaced Oliver Smith as the new leader of the gang, when a lone gunman fired shots at her vehicle and the motorcycles accompanying her. One motorcycle rider was killed.

The Access to Information Act (ATI), signed in 2002, went into effect on January 5. This law provides public access to information held by government ministries and agencies. However, there were reports that some legitimate requests for information were not granted, and a Joint Select Committee of Parliament undertook a review of the ATI to consider its effectiveness from the standpoint of end-users as well as that of the public officials providing service under the act.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups and other international bodies generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The nongovernmental organization (NGO) Jamaicans for Justice (JFJ) focused on the issues of police impunity, extrajudicial killings, and excessive use of force by the police and wrote a weekly newspaper column. JFJ reported that undercover police regularly attended its meetings. Some members of the police and the DPP were outspoken in their criticism of the organization. The group sits on the board of the Ministry of Justice's Justice Consultative Committee; however, that committee reportedly has not met since April 2004. JFJ resigned its seat on the Ministry of National Security's committee to oversee the recommendations of the National Committee on Crime and Violence, since the group did not feel the work of that committee was moving forward.

The Public Defender's Office brings cases on behalf of those who charged that their constitutional rights were violated. The office contracted private attorneys to bring suits against the government on behalf of private citizens. The public defender continued working on an overall antidiscrimination bill, which would create an Antidiscrimination Commission to make decisions about grievances. The public defender won compensation for at least four of the families of victims killed during the 2001 shootout in Tivoli Gardens, West Kingston, between members of the community, the JCF, and the JDF. Lawsuits filed on behalf of all the victims killed during the shooting remained pending at year's end.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, place of origin, political opinions, color, or creed. The government generally enforced these prohibitions in practice, although there continued to be widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, particularly in the garrison communities (see section 3).

Women.—The law provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to approximately \$166 (J\$10 thousand) and six months' imprisonment. Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. There was a general reluctance by the police to become involved in domestic issues, which may not be pursued vigorously when reported. The government's Bureau of Women's Affairs operated crisis hot lines and shelters and managed a public education campaign to raise the profile of domestic violence.

Rape, including spousal rape, was illegal and carried a penalty of up to 25 years' imprisonment with hard labor. During the year, 735 incidents of rape were reported (not including statutory rape), a decrease of 15 percent, but NGOs stressed that the vast majority of rapes were not reported. Moreover, these statistics may be misleading because often a significant decrease may be due to decreased reporting indicative of a lack of confidence in the police. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes.

Although the law prohibits prostitution, it was widespread, particularly in tourist areas.

Several women's groups, including Women's Media Watch, applauded the December ratification by parliament of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women.

There is no legislation that addresses sexual harassment, and it was a problem. There were reports of sexual harassment of women by the police, but some observers believed that women often did not report such incidents because there was no legal remedy. Parliament had not yet passed legislation relating to sexual harassment called for by the convention on violence against women.

Although the law accords women full legal equality including equal pay for equal work, in practice women suffered from discrimination in the workplace and often earned less than their male counterparts. The Bureau of Women's Affairs, reporting to the Minister of Development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised the awareness of problems affecting women.

There was an active community of women's rights groups, including Women's Media Watch, the Women's Political Caucus, the St. Peter Claver Women's Housing Cooperative, the Women's Construction Collective, the Sistren Theatre Collective, Woman Inc., and the Centre for Gender and Development Studies at the University of the West Indies. Among the major concerns of these groups was the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.

Children.—The government was committed to improving children's welfare. The Ministry of Education, Youth, and Culture was responsible for implementation of the government's programs for children.

Public primary education was free, universal, and compulsory for students between the ages of 6 and 11, and the Ministry of Education reported that 99 percent of children in that age group were enrolled in school. However, economic circumstances obliged thousands of children to stay home to help with housework and avoid school fees. As a result, attendance rates at primary schools averaged 78 percent, although some rural areas reported attendance as low as 50 percent. More than 70 percent of children between the ages of 12 and 16 had access to secondary school, and the UN Children's Fund reported that most children completed secondary education. A National Task Force on Education continued its review of the educational system and at year's end was working on suggested methods for improvement.

Medical care was widely available, and boys and girls enjoyed equal access.

There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, particularly in inner cities. NGOs reported that inner city gang leaders and sometimes even fathers initiated sex with young girls as a "right." There were 333 cases of carnal abuse reported, a 19 percent decrease over the same period in 2004. The government expressed concern about child abuse and acknowledged that incidents were underreported. The Child Development Agency (CDA) held training sessions to familiarize police officers with the rights of children and to prepare them to enforce the Child Care and Protection Act.

Child prostitution and trafficking for the purposes of sexual exploitation were problems (see section 5, Trafficking).

Trafficking in Persons.—Although the law does not prohibit specifically trafficking in adults, there were laws against assault and fraud, and other laws established various immigration and customs regulations that could be used against this practice. Trafficking in children was a problem, and there were reports that persons were trafficked primarily within the country.

The Child Care and Protection Act passed in 2004 specifically prohibits the sale or trafficking of minors and provides that violators receive the maximum penalty under the law. This law subjects convicted traffickers to a fine or imprisonment with hard labor for a term not exceeding 10 years, or both. It also provides that no person under the age of 18 years may be employed in a night club. Although authorities raided some night clubs, police tended to arrest victims of trafficking rather than owners of the clubs. There were few if any convictions under this law. Authorities reported that very few children had been found to be trafficking victims.

The International Labor Organization (ILO) estimated that several hundred minors were involved in the country's sex trade.

The country was also a transit country for illegal migrants moving to the United States and Canada, some of whom were believed to be trafficking victims. Groups at a special risk for trafficking included rural migrants who sought work in cities and tourist areas, usually in the sex industry. Corruption among immigration offi-

cial in facilitating the unauthorized international movement of persons was a concern.

The CDA managed facilities for at-risk children, and the government provided funding to NGOs that worked to reintegrate child laborers who were victims of trafficking.

On August 30, the government launched a year-long educational campaign to educate its citizens regarding the dangers of trafficking in persons. The government formed a National Trafficking Task Force and created a specialized police antitrafficking unit within the Organized Crime Division of the JCF. A main focus of this unit was to compile data on trafficking investigations and related legal proceedings. Two officers staffed the unit and both received training from the International Organization for Migration. Three major crime hot lines were available to receive reports of trafficking 24 hours per day.

Persons with Disabilities.—There were no laws prohibiting discrimination against persons with disabilities, nor any laws mandating accessibility for persons with disabilities, and such persons encountered discrimination in employment and denial of access to schools. Health care and other state services were reported to be universally available. Several government agencies and NGOs provided services and employment to various groups of persons with disabilities, but there was no government agency specifically charged with assisting persons with disabilities.

Other Societal Abuses and Discrimination.—The Offenses against the Person Act prohibits “acts of gross indecency” (generally interpreted as any kind of physical intimacy) between men, in public or in private, which are punishable by 10 years in prison. Although Prime Minister Patterson stated that the country would not be pressured to change its antihomosexual laws, in October a parliamentary committee proposed a combined national public debate on the legality of homosexuality and prostitution as matters of public health.

The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report allegations of human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbings, harassment of homosexual patients by hospital and prison staff, and targeted shootings of homosexuals. Police often did not investigate such incidents. J-FLAG documented a number of instances of homophobic violence during the year, some of which resulted in charges brought to court, while others were never reported to authorities by reason of fear.

On November 30, Lenford “Steve” Harvey, who operated Jamaican AIDS Support for Life, was killed on the eve of World AIDS Day. At least four men broke into Harvey’s home, stole items, and kidnapped Harvey. Two of Harvey’s associates who were in the home at the time reported that they were asked if they were gay; they answered negatively but Harvey did not reply, and the intruders took him from his home. Several hours later he was found shot to death in a rural area some miles from his home. At year’s end the police had a number of suspects under investigation. A senior JCF official familiar with the Harvey killing reported that the suspects were also linked to other similar robbery-murders whose victims were apparently heterosexual, and he cautioned against categorizing Harvey’s death as a hate crime pending further evidence. The JCF appointed political ombudsman Bishop Herro Blair as an independent civilian monitor to oversee the investigation.

In December a homophobic mob allegedly chased homosexual Nokia Cowen off a pier at Kingston Harbor where he drowned. At year’s end the police had not identified any suspects in the killing.

In June 2004 Brian Williamson, a prominent homosexual rights activist and founding member of J-FLAG, was found stabbed to death at his home in Kingston. Human rights groups believed that the brutality of Williamson’s death indicated a hate crime, but the JCF maintained that the crime was a robbery. A suspect remained in custody at year’s end awaiting trial.

Also in June 2004 a group of armed men, reportedly including famous dancehall artist Mark Myrie, a.k.a. Buju Banton, forced their way into a house in Kingston and beat six men while shouting homophobic insults. Banton plead not guilty to the charges on September 21, and was released on less than \$1 thousand (J\$50 thousand) bail. The court extended Myrie’s bail on September 30 and again on October 19, when the court relaxed its conditions, requiring that he report to his local police station once per week.

Male inmates deemed by prison wardens to be homosexual are held in a separate facility for their protection. The method used for determining their sexual orientation is subjective and not regulated by the prison system, although inmates were said to admit their homosexuality for their own safety. There were numerous reports of violence against homosexual inmates, perpetrated both by the wardens and by other inmates, but few inmates sought recourse through the prison system.

Homosexual men were hesitant to report incidents against them because of fear for their physical wellbeing. Human rights NGOs and government entities agreed that brutality against homosexuals, both by police and private citizens, was widespread in the community.

No laws protected persons living with HIV/AIDS from discrimination. Human rights NGOs reported severe stigma and discrimination against this group. Although health care facilities were prepared to handle patients with HIV/AIDS, health care workers often neglected such patients.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form or join a trade union, and unions functioned freely and independently of the government. Approximately 20 percent of the work force of 1.2 million was unionized. Some union workers charged that private sector employers laid them off and then rehired them as contractors with reduced pay and benefits; a practice that was legal as long as workers received severance pay.

b. The Right to Organize and Bargain Collectively.—The law permits unions to conduct their activities without interference, and the government protected this right in practice. An independent Industrial Disputes Tribunal (IDT) hears cases when management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handled 35 to 40 cases each year. Most were decided within 90 days, but some took longer to resolve due to the complexity of the dispute or delays requested by the parties.

Collective bargaining is denied to a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the union). The ILO Committee of Experts (COE) considered that, where there was no collective bargaining agreement and where a trade union did not obtain 50 percent of the votes of the total number of workers, the union should be able to negotiate at least on behalf of its own members. The COE requested the government to take necessary measures to amend this legislation. The government contended that this would unduly lengthen negotiations.

The law neither authorizes nor prohibits the right to strike, and strikes did occur: of 129 disputes reported to the Ministry of Labor, 16 resulted in strikes. Striking workers could interrupt work without criminal liability but could not be assured of keeping their jobs, although there were no reports of any workers losing their jobs over a strike action during the year. Workers in 10 broad categories of “essential services” are prohibited from striking, a provision the ILO repeatedly criticized as overly broad.

Domestic labor laws applied equally to the “free zones” (export processing zones), but there were no unionized companies in any of the 3 publicly owned zones, which employed approximately 134 workers. Organizers attributed this circumstance to resistance to organizing efforts by foreign owners in the zones, asserting that there was an unwritten agreement among them to prevent free zone workers from participating in trade unions. Nonetheless, efforts to organize plants within the zones continued. Company-controlled “workers’ councils” handled grievance resolution at most free zone companies, but they did not negotiate wages and conditions with management. Management determined wages and benefits within the free zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and, in practice it performed them at 6- to 9-month intervals.

c. Prohibition of Forced or Compulsory Labor.—The law does not specifically prohibit forced or compulsory labor, including by children, but other than child prostitution, there were no reports that such practices occurred (see section 5).

The ILO Committee of Experts’ annual report reiterated its recommendation that the government amend prison rules so as to ensure that no prisoners may work for private individuals or companies except under conditions of a freely accepted employment relationship, which would bring the rules into conformity with ILO Convention 29 on Forced Labor. The Ministry of Labor stated that prisoners do not work privately unless they have approval from the commissioner, and that prisoners who work privately freely accept the employment and receive normal wages.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Child Care and Protection Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. It also prohibits children under the age of 15 from industrial employment. The police are mandated with conducting child labor inspections, and the CDA is charged with finding places of safety for children.

However, according to CDA officials, resources to investigate exploitative child labor were insufficient. Children under the age of 12 peddled goods and services or begged on city streets. There were also reports that underage children were employed illegally in fishing communities and in prostitution (see section 5).

e. Acceptable Conditions of Work.—The government sets the minimum wage, after receiving recommendations from the National Minimum Wage Advisory Commission. During the year the minimum wage was changed to \$40 (J\$2,400) per week and \$1.50 (J\$90) per hour for private security guards. The minimum wage did not provide a decent standard of living for a worker and family. Most workers were paid more than the legal minimum, except in the tourism industry. The Ministry of Labor administered and enforced the minimum wage.

The law provides for a standard 40-hour workweek and mandates at least one day of rest per week. Work in excess of 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that was observed widely, except by some security guard companies. The law does not prohibit excessive compulsory overtime, and some employees, including security guards, regularly were required to work 12-hour shifts without overtime compensation. There were differing practices among security guard companies, but workers were generally not paid for overtime unless they worked for over 12 hours.

The Ministry of Labor's Industrial Safety Division sets and enforces industrial health and safety standards, mainly through factory inspections. Insufficient staffing in the Ministries of Labor, Finance, National Security, and the public service contributed to the difficulties in enforcing workplace regulations. At year's end the Industrial Safety Division had 16 officers, who conducted 2,344 planned inspections, 282 special inspections, and 77 accident investigations. Violators were warned and given a time period in which to correct the violation. If the violation was not corrected within that time, the violator was taken to court. Authorities brought 10 cases to court during the year.

Industrial accident rates remained low. The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.

MEXICO

Mexico, with a population 106 million, is a federal republic composed of 31 states and a federal district, with an elected president and bicameral legislature. In 2000 voters elected President Vicente Fox Quesada of the National Action Party to a 6-year term in generally free and fair multiparty elections. While civilian authorities generally maintained effective control of the security forces, elements of the security forces frequently acted independently of government authority.

The government generally respected and promoted human rights at the national level; however, violations persisted at the state and local level. The government investigated, prosecuted, and sentenced several public officials and members of security forces involved in criminal acts; however, impunity and corruption remained a problem. Local police released suspects who claimed to have been tortured as part of investigations, and authorities investigated complaints of torture, but authorities rarely punished officials for torture. There was a marked increase during the year in narcotics trafficking-related violence, especially in the northern border region. Violence against women continued to be a problem nationwide, particularly in Ciudad Juarez and the surrounding area. Government efforts to improve respect for human rights were offset by a deeply entrenched culture of impunity and corruption. The following human rights problems were reported:

- unlawful killings by security forces
- vigilante killings
- kidnappings, including by police
- torture, particularly to force confessions
- poor, overcrowded, sometimes life-threatening prison conditions
- arbitrary arrest and detention
- corruption, inefficiency, and lack of transparency in the judicial system
- statements coerced through torture permitted as evidence in trials
- criminal intimidation of journalists, leading to self-censorship

- corruption at all levels of government
- domestic violence against women often perpetrated with impunity
- criminal violence, including killings, against women
- trafficking in persons, allegedly with official involvement
- social and economic discrimination against indigenous people
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—While the government or its agents did not commit any politically motivated killings, security forces acting both within and outside the line of duty killed numerous persons during the year

Police killed several persons during apprehension or in custody. In May Federal Preventive Police (PFP) officers shot and killed three university students in Reynosa, Tamaulipas, during an apprehension that turned out to be a case of mistaken identity. The Tamaulipas governor called it an act of negligence and an abuse of authority; an investigation was pending at year's end.

In August American citizen Pauline Baeza died while in custody of local police in Ensenada, Baja California. Baeza was dropped on her head as three officers, two holding her by the legs and the other by the middle chain of her handcuffs, carried her into the police facility. Police put Baeza in a holding cell alone without calling for medical attention, and she died a short time later. On September 19, a state penal court issued arrest warrants for negligent homicide, abuse of authority, and aiding and abetting a crime for five officers involved. The cases remained pending at year's end.

There were numerous reports of executions carried out by rival drug gangs, whose members allegedly included both active and former federal, state, and municipal security forces. The government increased its military and law enforcement presence in the northern border area as part of "Operation Secure Mexico" in response to deadly attacks against government officials and general lawlessness (see section 1.d.). More than 1,200 persons were killed during the year in drug-related violence throughout the country, but particularly in the northern border area as well as the states of Michoacan and Sinaloa. In June unknown assailants firing assault rifles killed Alejandro Dominguez six hours after he was sworn in as Nuevo Laredo's police chief.

There were no developments, and none were expected, in the following cases of killings in 2004: in January of Socrates Tolentino Gonzales Genaro, in May of Manuel Zarate Villaruel, in July of Serafin Garcia, in August of Maximiano Cristobal Lorenzo, in September of Guadalupe Avila Salinas, and of indigenous leaders in Chiapas and Guerrero. There were no developments in the 2003 killing of Abelino Encino Guzman and the 2002 massacre of peasant farmers near Agua Fria.

In July Secretary of Government Carlos Abascal agreed to review the cases of 71 persons detained for the 1997 killing of 45 Tzotzil Indians in Acteal, Chiapas. In a December 22 press conference, Abascal stated that the Acteal investigation and case reviews were ongoing. Human rights groups complained that impunity continued eight years after the incident. According to the Fray Bartolome de las Casas Center for Human Rights, the criminal cases against 80 of the 87 persons arrested were still in the judicial process, and there were 27 arrest warrants outstanding at year's end.

There were instances of vigilante killings. On June 1, a guerrilla group claimed responsibility for killing former Guerrero secretary of government Jose Ruben Robles for his alleged role in the 1995 massacre of 17 indigenous farmers in Aguas Blancas, Guerrero.

On November 23, President Fox's spokesman Ruben Aguilar reported that 32 persons faced indictment and 10 others were being sought in connection with the November 2004 vigilante attack on 3 PFP agents in the Tlahuac neighborhood of Mexico City.

There were no developments, and none were expected, in the 2003 lynching of Mariano Garcia Escamilla.

Organized military-style groups associated with drug cartels killed scores of persons during the year, including innocent bystanders and police. Local and international press continued to report that a group of former special forces soldiers (known as the "Zetas") collaborated with drug trafficking gangs. On October 1, four gunmen entered a hospital in Nuevo Laredo to carry off a wounded man suspected of being a cartel member and shot and killed a police officer. According to press ac-

counts, more than 135 persons were killed by violence in Nuevo Laredo between January and October, including 14 police officers.

Societal violence against women was a serious problem. The media reported the discovery of the bodies of 34 women in Ciudad Juarez (see section 5).

b. Disappearance.—There were no reports of politically motivated disappearances; however, there were credible allegations of police involvement in kidnappings. In September Public Security Secretariat officers detained an agent from the attorney general's office (PGR) and two Mixed Unit Against Drug Dealing agents on charges of kidnapping and extortion of a manager of a nightclub. The three agents were in custody and pending trial at year's end. In several cases of reported disappearances, police actually had detained the missing person incommunicado for several days (see section 1.d.).

On April 2, an investigative reporter disappeared in Hermosillo, Sonora, on his way to meet a source (see section 2.a.). He remained missing at year's end and was presumed dead.

There were no developments, and none were expected in the following cases: 13 Chihuahua State judicial police arrested in January 2004 in connection with forced disappearances and killings at the behest of the Juarez drug cartel and the 2003 disappearance of Marcelino Santiago Pacheco, leader of the Organization of Indigenous Zapotec People.

The special prosecutor for past social and political movements made no significant progress on prosecuting crimes committed during the country's "dirty war" era of the 1970s and 1980s. On July 26, a court refused to issue an arrest warrant for former president Luis Echeverria and his interior secretary, Mario Moya Polencia, for ordering the 1971 massacre of student activists. On September 21, a court again refused to issue an arrest warrant for Echeverria this time for his involvement in the 1968 Tlatelolco Massacre, which the court found did not meet the definition of genocide.

On August 22, a court cancelled the 15-year sentence General Arturo Acosta Chaparro received for drug trafficking. Generals Acosta and Francisco Quiros Hermosillo still faced charges related to the killing of 22 *campesinos* during the 1970s.

Kidnapping continued to be a serious problem for all socio-economic levels. There were unofficial estimates of three thousand kidnappings annually, but many went unreported, as families negotiated directly with kidnappers. Nonetheless, security forces made several high-profile kidnapping arrests and rescues during the year.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, they persisted, and torture in particular continued to be a serious problem. Despite the law's provisions to the contrary, confessions obtained by torture often were admitted as evidence (see section 1.e.). Many citizens distrusted the justice system, including law enforcement officials, and were reluctant to register official complaints. A May study by the Chamber of Deputies Center for Social Studies and Public Opinion found that for every complaint filed with authorities, two or three complaints were not filed because the public perceived the justice system as ineffective.

Authorities rarely punished officials for torture, which continued to occur in large part because confessions were the primary evidence in many criminal convictions (see section 1.e.). Human rights groups linked torture to the pervasiveness of arbitrary detention, as police and prosecutors attempted to justify an arrest, many times without a warrant, by securing a confession to a crime (see section 1.d.). Additionally, investigators often attempted to solve crimes by rounding up likely suspects and extracting confessions through torture.

Although the president signed the Facultative Protocol of the UN Convention Against Torture in March, the government did not generally implement preventive measures against torture and complete transparency in reporting incidents. In March the representative for the Office of the UN High Commissioner for Human Rights stated that torture continued, and in June Amnesty International (AI) reported that it had documented 46 cases of torture over the previous 18 months. In November the president of the National Commission for Human Rights (CNDH) Jose Luis Soberanes stated that the CNDH had received 12 torture complaints during the year. According to Soberanes, authorities have added more modern psychological methods of torture to the traditional methods of beatings, burning with cigarettes, near suffocation, and hitting with telephone books.

On July 14, a judge released Victor Garcia Uribe, one of four prisoners identified in June 2004 as a victim of torture. Two others had been released in 2004, and a fourth person remained in prison awaiting results from a review of his Istanbul Pro-

to col filing. While authorities had not punished any police officers accused of torture in these cases, investigations continued at year's end.

Officials in the state of Jalisco failed to act on recommendations from the CNDH concerning reports that police tortured and mistreated protesters detained in May 2004 in Guadalajara. In May AI reported that several detainees were coerced, beaten, or threatened into making confessions or giving the names of those suspected of having carried out sporadic acts of violence that ensued when police clashed with demonstrators at the closing of the Third Summit of Heads of State and Government of Latin America, the Caribbean, and the European Union. The government had not sanctioned any officials involved.

On August 25, Mexico City police released Nadia Zepeda from prison. At the time of her conviction for drug offenses in 2003, Zepeda, then age 18, claimed police raped and tortured her while she was in custody at the police station, and human rights groups stated that her trial was deeply flawed. No sanctions were imposed against those accused, but Zepeda was pursuing complaints against them.

On June 19, local police in Ciudad Juarez arrested American citizen minor Bryan Torres on homicide charges. Torres reported that police beat and threatened him in an attempt to extract a confession to his involvement in the killing of two local police officers. No sanctions were imposed on the officers involved. Torres was appealing his conviction at year's end.

On August 6, an American citizen reported to the district attorney's office in Ciudad Juarez that local police had detained and raped her in the back of a police van. The victim and her family also complained that local police threatened them with arrest when they tried to report the crime at the municipal police station. Of the three officers involved in the incident, one officer was in custody, one officer was released on bail, and an arrest warrant was outstanding for the third officer.

Prison and Detention Center Conditions.—Prison conditions remained poor. The CNDH reported that corruption, overpopulation, alcoholism, and drug addiction were prevalent in most facilities. Undertrained, underpaid, and corrupt guards staffed most prisons. Health and sanitary conditions were poor, and most prisons did not offer psychiatric care. Authorities occasionally placed prisoners in solitary confinement for indefinite periods; prisoners often had to bribe guards to acquire food, medicine, and other necessities. Prison overcrowding continued to be a common problem as the country's 455 penal facilities were at 125 percent capacity, with 1 prison at 270 percent capacity.

In many prisons, inmates exercised significant authority, displacing prison officials and creating general insecurity. In January military authorities were called into the maximum-security prison La Palma and later into other maximum-security prisons to regain control from convicted drug dealers who were subverting internal security and running their external criminal organizations from inside.

Extensive insecurity led to numerous inmate deaths, generally at the hands of other prisoners. There were at least 37 deaths in prisons throughout the country during the year, with 17 deaths in Mexico City prisons.

In 2004 the CNDH noted that female prisoners lived in worse conditions than male prisoners.

Pretrial detainees routinely were held together with convicted criminals.

The government permitted independent monitoring of prison conditions by non-governmental organizations (NGOs) and human rights organizations. The International Committee of the Red Cross, the CNDH, and state human rights commissions visited detainees during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention as well as sponsoring or covering up an illegal detention; however, police routinely ignored these provisions.

Role of the Police and Security Apparatus.—The federal, state, and municipal police forces included 331 thousand officers. The federal and state police are divided into preventive and judicial police. Preventive police maintain order and public security and generally do not investigate crimes. Judicial police serve as the investigative force under the authority and command of the public ministries (prosecutor's offices). The military is responsible for external security but also has significant domestic security responsibilities, particularly in combating drug trafficking and maintaining order.

Corruption continued to be a problem, as many police were involved in kidnapping, extortion, or in providing protection for or acting directly on behalf of organized crime and drug traffickers. Impunity was pervasive to an extent that victims often refused to file complaints. Responsibility for investigating federal police abuse falls under the purview of the PGR and the Secretariat of Public Administration (SFP), depending on the type of offense. The CNDH also can receive complaints, but

its recommendations are nonbinding and carry no legal weight. A similar mechanism exists at the state level. The CNDH provided human rights training for security and military forces, and the government continued professional training of its law enforcement officials. The National Defense Secretariat held numerous events, seminars, and classes in conjunction with the CNDH, and the military prosecutor's office offered human rights training to more than 16 thousand security forces.

In June the government deployed federal authorities and military forces along its northern border and elsewhere as part of "Operation Secure Mexico" in response to deadly attacks against government officials and general lawlessness. Also in June, federal authorities assumed control of all law enforcement activities in Nuevo Laredo, Tamaulipas, for 6 weeks while the government suspended the entire 700-officer municipal police force and investigated it for connections to drug traffickers and organized crime. The investigations led to the discharge of 250 police officers.

Arrest and Detention.—Police arbitrarily arrested and detained persons suspected of crimes, in many cases without a warrant. In the legal system a suspect is deemed guilty until proven innocent. A prosecutor may hold a person up to 48 hours (96 hours in cases of organized crime) before presenting the suspect to a judge and announcing charges. The law provides that authorities must sentence an accused person within four months of detention if the alleged crime carries a sentence of less than two years' imprisonment, or within one year if the crime carries a longer sentence; in practice, judicial and police authorities frequently ignored these time limits (see sections 1.c. and 1.e.). A financial bond may be placed as bail only in cases that carry penalties of five years or less; otherwise, release is not available. Detainees were usually allowed prompt access to family members and to counsel.

Police detained missing persons incommunicado for several days. AI reported that on August 23, local police in Huitiupan, Chiapas, arrested Rosario Diaz Mendez, a Tzotzil indigenous person, and detained him in an unofficial detention center. Diaz's family was unable to confirm his whereabouts or establish his legal situation until August 25. Diaz claimed that during his detention police tied and blindfolded him and placed a plastic bag over his head in an effort to force his confession to involvement in a kidnapping.

In August police fired tear gas and detained more than 500 persons in a confrontation with demonstrators urging authorities to end an investigation of a children's home in Cancun, Quintana Roo. There were numerous injuries as a result of a violent clash between one group in the crowd and police, among them two women taken to the hospital in critical condition. Those detained complained of ill treatment, torture, and arbitrary detention. Local authorities were investigating the complaints at year's end.

In November 2004 local police in the state of Guerrero arrested and charged Felipe Arreaga Sanchez, an environmental activist, with the 1998 killing of the son of a politically connected local timber businessman, Bernardino Bautista. AI identified many irregularities with the case and declared Arreaga a prisoner of conscience. In September a judge dismissed all charges due to insufficient evidence and released Arreaga.

There were no reports of political detainees.

Lengthy pretrial detention remained a problem. A 2004 Open Societal Justice Initiative study estimated that there were approximately 82 thousand detainees awaiting trial, which constituted approximately 42 percent of all persons imprisoned. The media reported that detainees sometimes were held several years without a trial.

Amnesty.—The CNDH cooperated with the PGR and the Public Security Secretariat to review cases of indigenous prisoners and secure prisoner releases as merited. By year's end authorities had released more than 300 indigenous prisoners (see section 5).

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, government authorities occasionally influenced court decisions, particularly at the state and local level. Corruption, inefficiency, and lack of transparency continued to be major problems in the justice system.

The federal court system consists of the Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts.

Trial Procedures.—Based on the Napoleonic Code, the trial system consists of a series of fact-gathering hearings during which the court receives documentary evidence or testimony. A judge in chambers reviews the case file and then issues a final, written ruling. The record of the proceeding is not available to the general public; only the parties involved have access to the official file, but only by special motion.

The law provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented, and the government generally respected these rights in practice. In most cases, court hearings were open to the public.

In February Nuevo Leon became the first state to hold oral trials for crimes carrying maximum penalties of seven years. At least five other states were considering similar justice reforms.

Although the law provides defendants with the right to an attorney at all stages of criminal proceedings, in practice this only meant that authorities had to appoint a "person of confidence" to represent a defendant. A "person of confidence" was not required to meet any particular legal qualifications. The public defender system was not adequate to meet demand. Defendants' services were placed either in the judicial or executive branch; there were no autonomous public defender services.

The situation was often more complicated in cases of indigenous defendants who did not speak Spanish. Although the law provides for translation services to be available at all stages of the criminal process, this generally was not done. Consequently, defendants sometimes were unaware of the status of their cases, and suspects frequently were convicted without fully understanding the documents they were required to sign. The government continued an amnesty program for indigenous prisoners to try to rectify the problem (see section 1.d.).

Judges continued to allow statements coerced through torture to be used as evidence against the accused (see section 1.c.), a practice particularly subject to abuse because confessions were the primary evidence in nearly all criminal convictions. NGOs declared that judges often gave greater evidentiary value to the first declaration of a defendant, thus providing prosecutors an incentive to obtain an incriminating first confession and making it difficult for defendants to disavow such declarations.

The law provides for military jurisdiction for crimes or offenses involving any violation of military discipline. In cases in which a member of the military commits a crime and is arrested by civil authorities, the military has the right to request the immediate transfer of the case to military jurisdiction, a practice condemned by the Inter-American Commission on Human Rights.

Political Prisoners.—There were some reports of political prisoners. On December 27, the state of Guerrero Secretary General Armando Chavarria Barrera stated that his office was reviewing the cases of 9 potential political prisoners held in the state's penitentiaries and that an official count would be released when he had completed an investigation into all 18 Guerrero penitentiaries. The secretary general did not provide a time frame for the completion of this review nor what action would be taken if political prisoners were found.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Although the law prohibits such practices and requires search warrants, authorities occasionally disregarded these provisions. The CNDH received 59 complaints of illegal searches from January through August.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and the press, and the government generally respected these rights in practice.

While the government generally tolerated criticism, officials occasionally responded to unfavorable news articles by threatening their authors with libel and defamation lawsuits. There were approximately 300 privately owned newspapers, and most radio stations were privately owned.

Despite federal government support for freedom of the press, journalists worked in an extremely dangerous environment. Two journalists were killed during the year, and one disappeared and was presumed dead; others were harassed, threatened, or attacked. Between January and July, the CNDH received 54 complaints regarding violence against the media. In September the Committee to Protect Journalists stated that the country's northern states were particularly hazardous for journalists, particularly for those covering crime and drug trafficking.

The PGR participated in investigations of the killing of journalists and named special prosecutors in the states of Chihuahua, Durango, Oaxaca, Sinaloa, Tabasco, Tamaulipas, and Yucatan to deal specifically with crimes against the media. In June the PGR established a hot line to receive information and tips about cases involving the killing of journalists.

On July 18, a mob of alleged union members in Oaxaca forcibly evicted 31 staff members of the daily newspaper *Noticias* from a building owned by the paper. *Noticias* had criticized the Oaxaca State government and Governor Ulises Ruiz Ortiz. As police looked on, masked attackers carrying pickaxe handles destroyed equipment and forced staff to abandon the building. The following day, police con-

fiscated a van delivering *Noticias* and arrested the driver. Authorities conducted no investigation.

Reporters covering the various drug cartels and associated corrupt public officials acknowledged practicing self-censorship, recognizing the dangers investigative journalism presented to themselves and their families.

International press organizations contended that federal and state criminal defamation and libel laws violate freedom of expression and advocated their repeal. On February 24, authorities in Pachuca, Hidalgo, seized all copies of national daily *El Universal* that published an article criticizing the governor.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Groups that wish to meet in public areas must inform local police authorities in advance. Organized, peaceful demonstrations occurred frequently throughout the country. Several times during the year demonstrators clashed with police, and subsequent arrests led to complaints of arbitrary detention, use of excessive force, and torture (see sections 1.c. and 1.d.).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. However, poor enforcement mechanisms have allowed local authorities to discriminate against persons based on their religious beliefs, especially in the south. Federal and local governments often failed to punish those responsible for acts of religious discrimination.

Religious associations must register with government to operate legally. Although the government may reject applications because of incomplete documentation, the registration process was routine. More than 6,300 religious associations were registered.

Societal Abuses and Discrimination.—In the central and southern regions, some leaders of indigenous communities regarded evangelical groups as unwelcome outside influences and as economic and political threats. These leaders sometimes acquiesced in or ordered the harassment or expulsion of individuals belonging chiefly to Protestant evangelical groups. Whether a group was displaced forcibly with violence or left voluntarily to avoid harassment, it often found itself living on the outskirts of another local community in circumstances even worse than the extremely poor conditions common to the region. On several occasions, village officials imposed sanctions on evangelicals for resisting participation in community festivals or refusing to work on Saturdays. In March, Catholics in Zinacantan, Chiapas, refused to admit Protestant children to schools, and the water supply was cut off for 90 Protestant families (approximately 300 persons) in the same community.

In October 40 families (approximately 150 persons) were threatened with expulsion from San Nicholas in the state of Hidalgo for not contributing to the community and work projects. In November the governor of Hidalgo and officials from the secretariat of government met with representatives of the Protestant families and publicly assured their safety and right to remain; however, tensions remained high at year's end.

There were several cases during the year in which an evangelical member of a Catholic-dominated community was denied burial in the local Catholic cemetery under the "usages and customs" law. In such cases, the government's state religious affairs office attempted to mediate a solution between the families and local authorities, and in two cases, the state government assisted families to pay the burial expenses.

The Jewish community numbered approximately 45 thousand persons. There was one isolated report of an anti-Semitic act: In October demonstrators supporting workers of the Social Security Institute (IMSS) during contentious contract negotiations put up signs in front of an IMSS clinic that included swastikas and anti-Semitic slurs in reference to the IMSS Director Santiago Levy.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law does not permit forced exile, and it was not practiced.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecu-

tion. From January to July, the government granted refugee status or asylum to 131 applicants.

The government has provided temporary protection in the past to individuals who may not qualify as refugees under the 1951 Convention and its 1967 protocol but did not do so during the year. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In 2000 voters elected President Fox in a multiparty election that international and domestic observers described as generally free and fair.

During the year eight states held elections for governor along with municipal elections, and the local press and human rights activists reported complaints of voter intimidation and fraud. In January post-election clashes in Oaxaca between activists from the Institutional Revolutionary Party and the Party of Democratic Revolution (PRD) resulted in 6 deaths, injuries to 20 persons, and 25 arrests.

In June President Fox signed a law allowing an estimated 11 million citizens living abroad to vote by mail-in ballot in the 2006 presidential elections.

In April the lower house voted to strip former Mexico City Mayor Andres Manuel Lopez Obrador of the immunity from prosecution associated with his office, a move widely considered a political ploy to prevent the popular PRD mayor from entering the presidential race. Lopez Obrador was accused of violating a court order to stop construction of an entrance road to a hospital and a prosecution could have prevented him from running for the presidency in 2006; however, the charges were not pursued.

Political parties, opposition groups, and independent associations functioned freely without government interference or restriction. National political parties must be recognized by the Federal Electoral Institute (IFE) and must receive at least 2 percent of the vote in national elections to maintain their registration. The IFE recognized eight national political parties. The law requires presidential candidates to represent a political party.

There were 27 women in the 128-seat Senate and 120 women in the 500-seat lower house. There were two female justices on the Supreme Court, one female cabinet member, and four women in the extended cabinet.

Many state electoral codes provide that no more than 70 to 80 percent of candidates can be of the same gender. All political parties continued their efforts to increase the number of women who run for elected office through formal and informal means. Some utilized quotas requiring that a certain percentage of candidates on a party list be female.

There were no statistics available regarding minority participation in government.

The law provides for the right of indigenous people to elect representatives to local office according to “usages and customs” law, rather than federal and state electoral law. Voter intimidation and conflict was not uncommon during elections in some indigenous communities. Traditional customs varied by village. In some villages, women did not have the right to vote or hold office; in others they could vote but not hold office (see section 5).

Government Corruption and Transparency.—Corruption was a problem at all levels of government as public officials continued to be involved frequently in bureaucratic abuses and a variety of criminal acts with impunity (see sections 1.b., 1.c., 2.a., 5, and 6). All major political parties were fined for illegal campaign funding over the last few years, and paying bribes to public officials and security forces continued to be a part of everyday life. In November the coordinator general of the civil protection agency, Carmen Segura Rangel, resigned her position in connection with financial irregularities at the federal disaster assistance fund. The SFP fined her \$77,300 (\$773 thousand pesos) and banned her from holding a federal public administration position for 10 years.

Since enactment of a 2003 law providing for public access to government information, transparency in public administration at the federal level has improved noticeably, and the government provided access to citizens and non-citizens, including foreign media. Access to information at the state and local level remained slow. According to a study by the International Relations Center, at the end of 2004 more than half of the country’s 31 states had enacted transparency laws, but only 25 of 1,062 municipalities in those states had registered transparency rules.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases.

Although federal government officials often were cooperative and responsive to their views, state and municipal authorities frequently harassed human rights defenders.

AI reported that on November 20, human rights activist Gustavo Jimenez Perez was beaten severely by six men who forced their way into his house. Jimenez had been researching alleged official corruption in the distribution of humanitarian relief in the aftermath of an October hurricane. Human rights defenders reported that they were the target of threats and harassment, particularly at the state and municipal level, and that official investigations usually were ineffective in identifying the perpetrators.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, or religion. While the government continued to make progress enforcing these provisions, significant problems, particularly violence against women, persisted.

Women.—Domestic violence was pervasive and vastly underreported. The law prohibits domestic violence, including spousal abuse, and stipulates fines equal to 30 to 180 days' pay and detention for up to 36 hours; however, actual sentences were normally lenient. According to a 2003 survey of the National Statistical Institute (INEGI), 47 percent of women age 15 and over had suffered at least 1 incident of physical, emotional, or sexual aggression. Victims generally did not report abuse for a variety of reasons, including reprisal by their spouse, fear of becoming economically destitute if their spouse is imprisoned, and the general disinterest of authorities in prosecuting such offenses.

In January the government's cabinet-level National Institute of Women (INMUJERES) reported that the national hot line established under the National Plan for a Life without Violence received more than twice as many calls in 2004 (11,396) as in 2003 (5,460). While some government-funded shelters for victims of domestic violence have been built, civil society organizations and women rights groups maintained the vast majority of available shelters. In August the state of Chiapas opened a comprehensive domestic violence shelter just outside Tuxtla Gutierrez for victims of domestic violence and their children.

The law prohibits rape and includes penalties of up to 20 years; however, victims rarely filed complaints with police. In November the Supreme Court confirmed that marital rape was illegal. In February Special Rapporteur of the UN Commission on Human Rights on Violence Against Women Yakin Erturk stated that impunity for sexual violence against women in the country was extensive and that perpetrators of such crimes rarely were brought to justice. According to the NGO Mexican Commission for Human Rights, spouses or partners committed 58 percent of reported homicides against women, and in 63 percent of sexual assault cases, the woman brought charges against someone in her family. Rapporteur Erturk added that violence against indigenous women was often "dismissed or justified within the context of cultural specificity."

The problem of violence against women was particularly grave in Ciudad Juarez and the state of Chihuahua, where 34 killings were discovered during the year. In August Special Commissioner Morfin submitted her second progress report, which attributed the slow investigative process to a culture of impunity, dubious investigative techniques, including torture, and police corruption and ineptitude (see section 1.c.). Morfin acknowledged that the state and municipal authorities of Chihuahua had shown a more favorable attitude and a new willingness to investigate cases correctly, but federal, state, and local efforts to solve the killings and restore security needed to be better coordinated.

On May 30, the government named Mireille Roccatti the new special prosecutor assigned to investigate the unsolved killings of more than 350 women and young girls in Ciudad Juarez and surrounding area over the past 12 years. On September 15, Roccatti resigned as special prosecutor, stating that her work would be completed by year's end. The PGR announced plans to expand the prosecutor's mandate to investigate violence against women throughout the country.

In August CNDH issued its second special report on the Ciudad Juarez killings; it stated that between January 1993 and August, authorities had opened 367 cases; 169 cases were concluded in a court (144 resulted in convictions, 9 resulted in acquittal, and 16 were resolved by a court for minors), 184 cases were still in process, and 14 cases were closed. There were also 36 cases registered as disappearances.

In August an Argentine forensics team arrived in Ciudad Juarez to help identify bodies and provide technical assistance in investigations. Several suspects who claimed that police tortured them into confessing were released (see section 1.c.). The authorities signaled a greater willingness to investigate cases with the swift arrest of several suspects in the case of Airis Estrella Enriquez Pando, a 7-year-old girl who was raped and killed in May.

Prostitution is legal for adults, and it was practiced widely. While pimping and prostitution by minors under age 18 are illegal, these offenses also were practiced widely, often with the collaboration or knowledge of police. The country is a destination for sexual tourists and pedophiles, particularly from the United States. Trafficking in women and minors for prostitution was a problem (see section 5, Trafficking).

The law prohibits sexual harassment and provides for fines of up to 40 days' minimum salary, but victims must press charges. Reports of sexual harassment in the workplace were widespread, but victims were reluctant to come forward, and cases were difficult to prove.

The law provides that women shall have the same rights and obligations as men, and that "equal pay shall be given for equal work performed in equal jobs, hours of work, and conditions of efficiency." In May, however, INMUJERES announced that women workers earned significantly less than their male counterparts, more than 50 percent less in certain occupations.

Labor law provides extensive protection for pregnant women, which some employers reportedly sought to avoid by requiring pregnancy tests in pre-employment physicals and by continuing to make inquiries into a woman's reproductive status. In April INMUJERES and several other government agencies, launched a national campaign to raise awareness of laws protecting women against pregnancy testing.

Children.—The government was committed to children's rights and welfare. Although the government maintained programs to support maternal and infant health, provide stipends for educating poor children, subsidize food, and provide social workers, problems in children's health and education remained pervasive. Public education is offered through the university level, including advanced degrees. Nine years of education are compulsory, and parents are legally responsible for their children's attendance. The 2002 census conducted by the INEGI showed that 91 percent of children between ages 6 and 14 attended school, but only 68 percent of all children entering the first grade completed all nine years of compulsory education. In 2003 average educational attainment in the population aged 15 and older was 7.9 years.

The government provided numerous health care programs for boys and girls on the basis of equal access. The UN Children's Fund (UNICEF) reported 98 to 99 percent immunization rates for 1-year-old children.

Government statistics for 2000 (the most current available) recorded the following rates of reported violent treatment in the home: 28 percent of those aged 6 to 9, 9 percent of those aged 10 to 13, and 10 percent of those between 14 and 17.

Child marriage remained a problem. UNICEF reported in a 2003 survey that 28 percent of women 20 to 24 years of age had been married or in a union before the age of 18. In 2003, according to INEGI, 12 percent of men and 27 percent of women married between the ages of 15 and 19.

Trafficking in children for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Child labor was a problem, particularly among migrant farming families (see section 6.d.).

Trafficking in Persons.—While the law prohibits aspects of trafficking in persons, persons were trafficked to, from, or within the country, and there were credible reports that police, immigration, and customs officials were involved (see section 2.d.).

While no federal law prohibits all forms of trafficking in persons, various laws forbid certain aspects of trafficking. In November Baja California Norte became the first state to approve a comprehensive law to combat trafficking in persons. At the federal level child prostitution and pornography are felonies; anyone convicted of introducing a minor under age 16 to pornography, prostitution, or sexual exploitation can be sentenced to 5 to 10 years' imprisonment. Accomplices to sexual abuse or exploitation of a minor may be imprisoned for 6 to 10 years. When physical or psychological violence is used for sexual abuse or to profit from exploitation of a minor, the penalties are increased by up to one-half. The law also forbids forced or compulsory labor (see section 6.c.).

The government faced structural inefficiencies in collecting data and fostering investigations, prosecutions, and convictions of trafficking cases. Authorities disrupted smuggling operations, which often were directly involved in trafficking, and arrested

a number of suspected traffickers during the year. Nonetheless, convictions remained elusive, and differentiating trafficking cases from other types of cases, such as alien smuggling, remained a challenge for the government.

In August foreign national Frank White was extradited from Thailand to Mexico to stand trial for corruption of a minor and child prostitution. White was accused of sexually abusing, making pornographic films of, and prostituting more than 75 children in the Puerto Vallarta area since 1999.

CISEN is the lead operational and coordinating agency for antitrafficking efforts. The National Migration Institute (INM), the PGR, the PFP, the Foreign Ministry, and the Integral Development of the Family (DIF) also played key roles in combating trafficking, protecting victims, and prosecuting traffickers.

During the year the government participated in international investigations of trafficking.

The country was a point of origin, transit, and destination for trafficking victims. The vast majority of non-Mexican trafficking victims came from Central America; lesser numbers came from Brazil, Ecuador, China, Taiwan, India, and Eastern European countries. Victims were trafficked principally to the United States. Although there were no reliable statistics on the extent of trafficking, the government estimated that 20 thousand children were sexually exploited each year. Sexual tourism and sexual exploitation of minors were significant problems in the northern border area and in resort areas. Undocumented migrants from Central America and the poor were most at risk for trafficking.

CISEN reported that trafficking is usually only one element of organized criminal gang activities. Transnational and domestic organized criminal networks and gangs were the primary perpetrators of trafficking in persons. Many illegal immigrants fell prey to traffickers along the Guatemalan border, where the growing presence of gangs such as *Mara Salvatruchas* and *Barrio 18* made the area especially dangerous for unaccompanied women and children migrating north, whose numbers continued to increase.

Most victims of trafficking were poor and uneducated. Trafficking victims often related that they were promised a good job, but once isolated from family and home, were forced into prostitution or to work in a factory or the agriculture sector. Other young female migrants recounted being robbed, beaten, and raped by members of criminal gangs and then forced to work in table dance bars or as prostitutes under threat of further harm to them or their families.

There were credible reports that individual police, immigration, and customs officials participated in, facilitated, or condoned trafficking, primarily for money. Poorly paid frontline officials frequently extorted money from victims and traffickers. In September a judge issued arrest warrants for seven INM agents in connection with their participation in a human smuggling ring. An investigation was ongoing at year's end.

During the year INM on a case-by-case basis began issuing visas to trafficking victims allowing them to remain in the country; at least four victims received such visas during the year.

Several NGOs, including the Bilateral Border Safety Coalition, the IOM, *Casa Alianza*, *The Coalition Against Trafficking in Women*, and *Sin Fronteras* assisted trafficking victims with education and prevention programs.

The government supported general trafficking prevention campaigns for children and women and administered special assistance programs for children repatriated to the country. While a partial framework existed to protect and provide social services to the victims of trafficking, undocumented migrants usually were deported before they could be identified and removed from the detention system. The government increased cooperation with NGOs and international organizations to build a network of trafficking victims' services and to identify potential trafficking victims. Bilateral cooperation against trafficking increased with programs to combat trafficking, increase protection for victims, and promote awareness.

Persons with Disabilities.—Although the law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and the provision of other services, the government did not effectively enforce all such provisions. Most public buildings and facilities in Mexico City did not comply with the law requiring access for persons with disabilities. The federal government stated that entrances, exits, and hallways in all of its offices had been made accessible to persons with disabilities, and in May it began a program to improve access in 13 airports.

Although the government made progress in treating persons with mental health illnesses, problems remained. According to the Pan American Health Organization, no more than 25 percent of those with a mental illness received adequate treatment. The World Health Organization reported that psychiatric hospitals overused electro-

shock treatment. The Ministry of Health stated that it investigated claims of abuse and spent \$3 million (\$33 million pesos) during the year to improve mental health treatment in four states.

During the 2003 congressional and state elections, the federal and state governments provided ballots, ballot boxes, and a special ballot holder and marker for voters with vision and motor skill disabilities.

The secretary of health collaborated with the secretaries of social development, labor, and public education, as well as with the DIF and the Office for the Promotion and Social Integration of the Disabled to protect the rights of persons with disabilities. During the year the government established offices and programs for the social integration of persons with disabilities, including a program to enhance job opportunities and launch an online portal to disseminate information and assistance.

Indigenous People.—The indigenous population has been long subject to discrimination, repression, and marginalization. Indigenous communities, located principally in the central and southern regions, represented 37 percent of the population in the states of Oaxaca and Yucatan. These groups remained largely outside the political and economic mainstream, due to longstanding patterns of social and economic discrimination. In many cases their ability to participate in decisions affecting their lands, cultural traditions, and allocation of natural resources were negligible.

There were numerous allegations of the use of excessive force and the violation of international humanitarian law. During the year the government maintained troops in selected areas of Chiapas and Guerrero, which was a continuing point of concern for many NGOs and indigenous rights groups.

Sporadic outbursts of politically motivated violence continued to occur in indigenous communities in the states of Chiapas, Guerrero, and Oaxaca. Historic land disputes also caused tensions in the indigenous regions.

Indigenous people did not live on autonomous reservations, although some indigenous communities exercised considerable local control over economic, political, and social matters. In the state of Oaxaca, for example, 70 percent of the 570 municipalities were governed according to the indigenous regime of “usages and customs” law, which did not follow democratic norms such as the secret ballot, universal suffrage, and political affiliation. These communities applied traditional practices to resolve disputes and choose local officials. While such practices allowed communities to elect officials according to their traditions, “usages and customs” laws tended to exclude women from the political process and often infringed on other rights of women.

The law provides some protection for indigenous people, and the government provided support for indigenous communities through social and economic assistance programs, legal provisions, and social welfare programs. Budget constraints, however, prevented these measures from meeting the needs of most indigenous communities, as severe shortages in basic infrastructure as well as health and education services persisted.

The law provides that educational instruction shall be conducted in the national language, Spanish, without prejudice to the protection and promotion of indigenous languages. However, many indigenous children spoke only their native languages, and the government did not provide a sufficient number of native language or bilingual teachers.

The government generally showed respect for the desire of indigenous people to retain elements of their traditional culture. The CNDH’s Office of the Fourth Inspector General investigated violations of indigenous rights. More than 130 NGOs were dedicated to the promotion and protection of indigenous rights.

Other Societal Abuses.—While homosexuals experienced a growing social acceptance, the National Center to Prevent and Control HIV/AIDS (CONASIDA) stated that discrimination persisted. Homophobic beliefs and practices were common, reflected principally in entertainment media programs and everyday attitudes. Reports of attacks against homosexuals and transsexuals were frequent.

The law prohibits several types of discrimination, including bias based on sexuality, and requires federal agencies to promote tolerance. In April the government launched a radio campaign to fight homophobia with material prepared by the CONASIDA.

A nationwide government survey released in May recorded that 44 percent of respondents said they would not share a house with an HIV-positive person, and 42 percent would not seek government intervention if their town banned homosexuals.

There were several incidents of harassment of, violent attacks on, and killing of homosexuals. On June 21, unknown assailants stabbed and killed Octavio Acuna while he worked in his condom shop in Queretaro. Acuna was a prominent human rights activist who campaigned for the rights of persons with HIV/AIDS and worked

for a sexual education association; the legal representative of the Queretana Association for Sexual Education, to which Octavio belonged, said that she considered Octavio's killing an act of homophobia. An investigation continued at year's end.

There were credible reports that police, immigration, and customs officials frequently violated the rights of undocumented migrants. Robbery and killings by the criminal gangs such as the *Mara Salvatruchas* and *Barrio 18* intensified on the southern border and spread northward. Undocumented migrants rarely filed charges in such cases because the authorities generally deported such persons who came to their attention.

Section 6. Worker Rights

a. The Right of Association.—Federal law provides workers the right to form and join trade unions of their choice, and workers exercised this right in practice. According to INEGI statistics, there were 45 million workers in the workforce, with 15 million in the formal sector—those paying taxes to the IMSS. Approximately 25 percent of the formal sector is unionized.

By law, 20 workers can form an independent union with a formal registration. Administrative procedures for registration are complex, and government labor boards frequently rejected applications on technicalities. A new union also must challenge the government-sanctioned union, if one exists, for control of the labor contract. Representation elections are traditionally open, which means management and officials from the existing union are present with the presiding labor board official when workers openly and individually declare their votes. Open elections have resulted in intimidation of pro-union workers.

In May the labor board in Guanajuato became the first state labor board to order a secret ballot election and permit international observers to be present during a representation election. Turnout approached 80 percent, and there was no physical violence.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively, and the government protected this right in practice. Collective bargaining contracts covered approximately 7 percent of workers. The law provides for the right to strike in both the public and private sector, and workers exercised this right. Although few formal strikes actually occurred, informal stoppages of work were common.

There are no special laws or exemptions from labor laws in export processing zones. Management in the *maquila* (in-bond export) sector and elsewhere sometimes used protection contracts to discourage workers from forming authentic unions at a company. Such contracts were collective bargaining agreements negotiated by management and a representative of a so-called labor organization without the knowledge of the workforce, sometimes even prior to hiring a single worker in a new factory.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, such practices commonly persisted in both rural and industrial sectors. Migrants and children were the most vulnerable.

Forced labor by children was a problem (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law protects children from exploitation in the workplace, including a prohibition on forced or compulsory labor; however, the government did not effectively enforce such prohibitions. The law prohibits children under age 14 from working, and those between age 14 and 16 may work only limited hours with parental permission, with no night or hazardous work. UNICEF reported that 16 percent of children age 5 to 14 were involved in child labor activities.

The Secretariat of Labor (STPS) is charged with protecting worker rights. Government enforcement was reasonably effective at large and medium-sized companies, especially in the *maquila* and other industries under federal jurisdiction. Enforcement was inadequate at many small companies and in the agriculture and construction sectors, and it was nearly absent in the informal sector in which most children work.

During the year STPS, the Secretariat of Social Development, and DIF carried out programs to prevent child labor abuses and promote child labor rights, including specific efforts to combat the commercial sexual exploitation of children (see section 5). UNICEF stated that, despite the government's progress in reducing its incidence over the past 10 years, child labor remained a significant problem.

It was not uncommon to find girls under the age of 15 working in prostitution. Trafficking in children for sexual exploitation was a problem (see section 5).

e. Acceptable Conditions of Work.—The law provides for a daily minimum wage, which is set each December for the coming year. For the year, the minimum daily

wages, determined by zone, were: \$4.36 (48 pesos) in Zone A (Baja California, Federal District, State of Mexico, and large cities); \$4.23 (46 pesos) in Zone B (Sonora, Nuevo Leon, Tamaulipas, Veracruz, and Jalisco); and \$4.11 (45 pesos) in Zone C (all other states). The minimum wage did not provide a decent standard of living for a worker and family, and only a small fraction of the workers in the formal workforce received the minimum wage. STPS is charged with protecting worker rights, including minimum wage provisions in the law, and it did so effectively.

The law sets six 8-hour days as the legal workweek. Any work over eight hours in a day is considered overtime for which a worker receives double the hourly wage. After accumulating nine hours of overtime, a worker earns triple the hourly wage, and the law prohibits compulsory overtime. However, there were labor rights disputes filed with labor boards and international labor organizations during the year with complaints that workers did not receive overtime pay they were owed.

The law requires employers to observe occupational safety and health regulations, issued jointly by STPS and the IMSS. Legally mandated joint management and labor committees set standards and were responsible for workplace enforcement in plants and offices. Individual employees or unions may complain directly to inspectors or safety and health officials. Workers may remove themselves from hazardous situations without jeopardizing their employment. Plaintiffs may bring complaints before the federal labor board at no cost to themselves.

While STPS and IMSS officials reported that compliance was reasonably good at most large companies, there were not enough federal inspectors to enforce health and safety standards at smaller firms.

NICARAGUA

Nicaragua is a constitutional democracy, with a population of approximately 5.4 million. In 2001 voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as president in a generally free and fair election. While civilian authorities generally maintained effective control of the security forces, some members of the security forces committed human rights abuses.

The human rights situation was affected significantly by persistent impunity, corruption, and a political struggle between the Bolanos administration and the opposition dominated legislature and judiciary. During the year the National Assembly attempted to rewrite the constitution and strip the executive branch of powers and institutional control. By year's end a framework law was agreed that would postpone any application of these constitutional changes until January 2007. The following human rights problems were reported:

- unlawful killings by members of the security forces
- harsh detention conditions
- beatings, torture, and other alleged abuses of detainees
- arbitrary arrest and detention of citizens
- politicization and corruption of the judiciary
- harassment and killing of journalists
- corruption and politicization of the Supreme Electoral Council
- politicization of the Office of the Human Rights Ombudsman
- domestic abuse and rape, and wage discrimination against women
- violence against children and child prostitution
- trafficking in women and girls for the purpose of sexual exploitation
- discrimination against indigenous people
- widespread child labor
- violation of worker rights in free trade zones

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Although the government or its agents did not commit any politically motivated killings during the year, police received allegations from nongovernmental organizations (NGOs), the media, and private citizens of unlawful killings by police officers; each of these was referred to the inspector general (IG) of the police. All killings involving police were referred to the courts for review, but the courts rarely found officers guilty of wrongdoing. During

the first half of the year, the IG reported 79 cases of injuries inflicted on criminal suspects by police during arrests (see section 1.d.).

On February 23, one of several rural land occupations instigated by the Sandinista party (FSLN) led to a violent confrontation between squatters and police near the city of Chinandega, where three squatters were killed, and nearly two dozen police and squatters were injured seriously. Following an investigation, the police internal affairs unit suspended 10 officers for excessive use of force. Prosecutors concluded that there was sufficient evidence to bring charges against only two of the officers, Mayra Ines Altamirano and Francisco Javier Gonzalez. At year's end there were no further developments in the investigation or possible court proceedings against the two officers. The human rights NGO Nicaraguan Permanent Human Rights Commission (CPDH) concluded that while some police officers had abused their authority and used excessive force, the squatters and political elements that encouraged the land seizure also bore responsibility for the violence and deaths.

On June 26, in Managua, police officers Francisco Acuna, Julio Guerrero, and Juan Hernandez allegedly shot and killed 17-year-old Samuel Garcia Chica in Managua. According to media accounts, police opened fire on Garcia when he and several other young alleged gang members resisted police search efforts. Police internal affairs found insufficient evidence to accuse the officers of wrongdoing. At year's end there was no further information available regarding the investigation or possible judicial action.

At year's end the police had still made no progress in solving the May 2004 killings of four police officers at the police station in Bluefields.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, there were credible reports that some police physically mistreated detainees, particularly to obtain confessions. The IG's office reported receiving 480 complaints of human rights violations by police officers during the first half of the year, including unlawful killings (see section 1.a.) and complaints forwarded by the Office of Civil Inspection for Professional Responsibility; the IG's Office found that 126 complaints had merit. The IG's office punished 204 officers for violating human rights. As a result, police discharged three officers dishonorably, remanded six to the courts on both human rights and corruption charges, and gave the rest lesser punishments, including demotion, suspension, and loss of pay.

On May 1, three police officers in the municipality of El Tortuguero allegedly raped a fellow officer in the municipal police barracks. Internal affairs investigated and concluded that only one officer, Leonel Duarte Sequeira, committed the rape and that there was insufficient evidence against the other two alleged participants. Internal affairs ordered Duarte dishonorably discharged from the Nicaraguan National Police (NNP), and his case was sent to the Office of the National Prosecutor for Prosecution. At year's end there was no further information on Duarte's trial.

In 2003 the Granada criminal court absolved of all charges police officer Santiago Arauz Cardenas for the 2003 beating of Octavio de la Rocha.

Prison and Detention Center Conditions.—Prison conditions were harsh. According to government statistics, there were 5,589 inmates in prisons designed to hold 5,446 prisoners. Some prisons and police holding cells were significantly overcrowded and lacked proper sanitation. The Managua women's prison, with a capacity of 110, reportedly held 170 prisoners in July. International donors and the United Nations Development Program (UNDP) worked with the police to improve conditions in holding cells.

The prison system remained underfunded, and medical supplies ranged from inadequate to nonexistent. For the country's 8 penitentiaries and 5,589 prisoners, the authorities maintained a staff of 28 medical specialists. Prison authorities reported that 30 percent of prisoners slept on metal bunks or mattresses on floors. A study carried out during the year by the authorities of the National Penal System (SPN) revealed that for each of 431 prisoners with serious mental and physical illnesses, the prison system had an average budget of \$.18 (3 cordobas) per month to purchase medicine.

The quality of prison food remained poor, and malnutrition remained a problem in local jails and police holding cells. Prison officials calculated that the daily expenditure per prisoner for food was approximately \$0.55 (9.2 cordobas). Many prisoners received additional food from visitors. Conditions in jails and holding cells remained harsh. Many holding cells were dark, poorly ventilated, unhygienic, and overcrowded. Suspects regularly were left in holding cells during their trials, because budgetary shortfalls restricted the use of fuel for transfers to distant courtrooms. At the Bluefields jail, there were 2 showers and 4 toilets for more than 100

prisoners. The authorities occasionally released detainees when they could no longer feed them.

In July Rosa Argentina Solorzano Picado died in the Managua women's prison. Her family alleged that she had suffered from a severe lung infection and other health problems and that prison and judicial authorities refused to transfer her out of the prison to receive medical attention. Prison authorities, the judiciary, and the Office of the National Prosecutor opened separate investigations to determine whether official wrongdoing or negligence contributed to Solorzano's death. Prison authorities ultimately concluded that three officials were negligent in their duties and failed to respond adequately to Solorzano's health problems. Prison authorities recommended administrative penalties for the three officials. No information regarding any further investigation was available at year's end.

The only separate prison for women was in Managua. In the rest of the country, women were housed in separate wings of prison facilities and were guarded by female custodians. Juveniles were housed in separate prison wings and were on different schedules than adults for mealtime and recreational activities.

The government permitted prison visits by local and international human rights observers, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The NNP is a single, unified force responsible for law enforcement throughout the country and is controlled by the Ministry of Government. Inadequate budget support for the NNP hampered efforts to improve police performance and resulted in a continuing shortage of officers. As a result, the army provided support in rural areas. Lack of coordination and rivalries between the NNP and the army were problems. The NNP continued to reduce the law enforcement role of voluntary police, private citizens who helped fill staffing gaps in some areas and who sometimes were implicated in human rights abuses.

Corruption and impunity remained a problem. The IG's office investigated allegations of police abuse and remanded to the court system for review all cases in which police used deadly force. During the year the courts were slow in adjudicating cases submitted by the IG. While the police await court decisions, the IG office usually applies administrative restrictions, such as suspension with pay or confinement to precinct. There was no information available on the number of police officers remanded to the courts for cases involving deadly use of force.

Police trainees are required to receive human rights instruction to graduate from the police academy and become officers, and police officers must be recertified in human rights annually. The army included human rights training in its core training curriculum (see section 4).

Arrest and Detention.—Persons are apprehended openly, and the law requires police to obtain a warrant from a judicial authority prior to detaining a suspect and to notify family members of the detainee's whereabouts within 24 hours. By law a prosecutor must accompany police making an arrest, and detainees have the right to an attorney as soon as they are arrested. Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to jail. This law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (see section 1.c.). During the 48 hours, the suspect does not have access to bail or to visits from family members.

There were no reports of political detainees.

Statistics from the Department of Prisons indicated that 16 percent of all prisoners awaiting final verdicts were pretrial detainees, compared with 26 percent in 2002.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judicial system was susceptible to corruption and political influence. Judges' political sympathies or acceptance of bribes or influence from political leaders often influenced judicial actions and findings. While civil and criminal courts continued to expedite the judicial process for those in prison awaiting a final verdict, human rights and lawyers' groups continued to complain about judicial inaction and delay.

The PLC and FSLN manipulated the judiciary for political purposes. The FSLN utilized its political control of the judiciary to impede the resolution of property claims. Both lower courts and the Supreme Court rendered controversial judgments dismissing evidence and convictions against international drug traffickers.

On March 3, FSLN leader Daniel Ortega used personal connections with judicial officials to obtain a court order permitting him to hold a rally in Masaya on March 6 to block a campaign rally by a rival for the 2006 FSLN presidential candidacy,

former Managua mayor Herty Lewites. The media and human rights organizations, including the pro-Sandinista Nicaraguan Center for Human Rights (CENIDH), criticized the action as a politically motivated threat to the freedoms of expression and assembly.

In March the Supreme Court named Oscar Loza, formerly of the state security directorate and a documented human rights abuser during the 1980s Sandinista regime, as a Managua appeals court judge. In March and April the court system continued to erase all corruption charges and convictions against Byron Jerez, former director of taxation during the government of Arnoldo Aleman (see section 3).

In April the National Assembly elected four magistrates to the Supreme Court, ensuring that the institution remained evenly divided between PLC and FSLN caucuses with political loyalties either to Arnoldo Aleman or Daniel Ortega. Despite promises that FSLN leader Daniel Ortega had made to President Bolanos that independent candidates would be given fair consideration, the National Assembly ignored lists of experienced and politically neutral candidates proffered by civil society and the Bolanos administration.

In July PLC-affiliated Judge Roxana Zapata granted to former President Aleman what the government and media described as an illegal medical parole that freed him from house arrest following 2003 convictions for money laundering, fraud, and corruption. According to the media and the government, the arrangement was part of a political deal between Aleman and Daniel Ortega. Although the attorney general's office appealed Aleman's release to an appeals court, sending Aleman back to house arrest for several weeks, on August 30, the Supreme Court, controlled by Aleman and Ortega supporters, approved the "medical parole" and ordered the government to release Aleman. The government released Aleman on September 22. Although Aleman's convictions technically remained in effect, press reports indicated that he and Ortega continued to negotiate a deal to erase the convictions.

The Supreme Court took partisan positions on legal issues in the institutional conflict between the Bolanos government and its FSLN and PLC opponents in the National Assembly. The court ignored the constitutional principle of separation of powers and ruled in favor of the assembly in every constitutional dispute that arose out of the assembly's reforms intended to strip powers from the presidency (see section 3). The Supreme Court's proposal during the year to create a body of judicial police that would follow its orders alone was dropped when the government and National Assembly reached a settlement.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court, and it administers the judicial system and nominates all appellate and lower court judges. The Supreme Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. The law requires that the attorney general investigate crimes committed by and against juveniles. The military code requires that the civilian court system try members of the military charged with common crimes.

There were no new developments in the case of Henry Ruiz and other members of the Augusto Cesar Sandino Foundation charged in 2003 with document fraud and illicit association to commit a crime. Observers noted that the charges were politically motivated.

Trial Procedures.—Trials are public and juries are used. Defendants have the right to legal counsel and are presumed innocent until proven guilty. The law provides public defenders to represent indigent defendants. Defendants can confront and question witnesses against them and also have the right to appeal a conviction. The Napoleonic legal process continued to be used for some old cases, particularly those which had been on appeal many times.

The country continued to lack an effective civil law system, with the result that private litigants often filed their cases as criminal complaints to force one party to concede to the party with more influence over the judge rather than face the prospect of detention in jail. This civil-based criminal caseload diverted resources from an overburdened prosecutor's office.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Although the law provides for freedom of speech and of the press, and the government generally respected these rights in practice, several constitutional provisions potentially qualify freedom of the press. The constitution stipulates that citizens have the right to accurate information, thereby pro-

viding an exception by which the freedom to publish information that the government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, the law establishes a retroactive liability, implying the potential for sanctions against the press. During the year the government did not invoke these provisions to suppress the media.

Journalists writing about controversial or politically sensitive subjects were subject to harassment and death threats. Well-connected individuals and groups also regularly used the corrupt court system to harass journalists by bringing trumped-up charges of libel or other crimes against them.

There were no new developments, and none were expected, regarding the August 2004 complaint filed by *La Prensa* journalist Mirna Velasquez with the CENIDH alleging blackmail and threats by Judge Carlos Mario Pena. During the year, however, Pena was removed from his position by the Supreme Court due to his involvement in a scheme to defraud the government of money seized from alleged international drug traffickers.

In May the National Assembly pressured the government into ratifying the new Arce Law, named for FSLN national assembly member Bayardo Arce. The law significantly reduced the tax exonerations that media outlets may obtain for imported materials and equipment. These tax exonerations helped the print and other media to keep prices low to enable wide access to information. Media outlets reported that the law resulted in significant bureaucratic delays that slowed the importation of needed printing supplies and equipment.

In June *La Prensa* political cartoonist Manuel Guillen received anonymous death threats, purportedly from the Sandinista party, in response to his regular caricatures of FSLN leader Daniel Ortega. Ortega and other FSLN leaders denied any responsibility for the threats. FSLN National Assembly deputy Tomas Borge told the media that if the FSLN had intended to kill Guillen, it would not have revealed its plans in advance.

In August taxi driver Santos Roberto Osegueda shot and killed *La Prensa* correspondent Ronny Adolfo Olivas Olivas in Esteli. Prior to the killing, Olivas received numerous death threats related to his reporting on international drug traffickers in the country. Media accounts stated that prior to his death Olivas had compiled a list of prominent individuals involved in drug trafficking in Esteli. On October 25, a jury trial found Osegueda guilty of murder, and on October 31, he was sentenced to 25 years' imprisonment.

In January a court in Juigalpa found the former PLC mayor of El Ayote, Eugenio Hernandez Gonzalez, guilty of murder in the November 2004 killing by shooting of *La Prensa* journalist Maria Jose Bravo Sanchez. The court sentenced Hernandez to 25 years in prison. The trial failed to address widespread public and media beliefs that others were involved in a politically motivated plot to kill Bravo Sanchez, who had received several death threats from prominent local PLC members prior to the killing. At year's end Hernandez remained in prison but had a pending appeal of his conviction.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law recognizes the right to public assembly, demonstration, and mobilization in conformity with the law and requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. Although the authorities routinely granted such permission, many groups claimed that the process was too cumbersome and marched without registering.

For several weeks in April, thousands of Sandinista-affiliated university students and union members organized violent demonstrations in Managua and other cities to protest increases in transportation costs. Protesters attacked President Bolanos and members of his cabinet with rocks and homemade mortars, injured police officers and bystanders, threw incendiary devices, disrupted traffic, and hijacked and burned buses and government vehicles. Police arrested violent participants, usually releasing them the next day. Several persons, including police officers, were taken to local hospitals and treated for tear gas inhalation and other injuries.

Freedom of Association.—The law provides for the right to organize or affiliate with political parties, and the government generally respected this right in practice. Private associations do not have legal status to conduct private fundraising or receive public financial support until they receive authorization from the National Assembly.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The government's requirements for legal recognition of a church are similar to its requirements for other private associations (see section 2.b.). A church must apply for legal standing, which the National Assembly must approve. Following assembly approval, a church must register with the Ministry of Government as an association or a foundation.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of movement within the country and freedom to travel and emigrate abroad, and the government generally respected these rights in practice. The right of citizens to return to the country is not established in the constitution, but the government did not restrict its citizens' return in practice.

Statutory provisions prohibit forced internal or external exile, and the government observed this prohibition in practice. There were no reports of political violence against citizens returning from civil-war-era, self-imposed exile. The constitution retains certain citizenship requirements for high-level government officials, including the provision that they must renounce citizenship in other countries at least four years prior to election or appointment.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum and cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Enrique Bolanos Geyer of the PLC won the presidency in generally free and fair national elections in 2001. In simultaneous legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the Conservative Party won 1 seat. In a June countrywide poll, 84 percent of respondents stated that they felt that the National Assembly did not represent them in any way.

During the year the National Assembly used controversial charges of fundraising violations by President Bolanos during his 2001 election campaign to pressure the president to negotiate with the assembly on a wide variety of issues in the country's long running institutional conflict. The Organization of American States (OAS) and foreign governments expressed concerns that the political charges against the president and the efforts to remove him from office threatened the constitutional order. In June the National Assembly formed two special commissions to study the charges against the president and several of his ministers who had been members of his campaign team. In September the assembly stripped several cabinet members of their immunity and sent their cases to the judiciary for prosecution on charges of campaign finance irregularities. Assembly leaders publicly stated that the charges were political in nature and intended as a lever in negotiations between the executive and legislative branches of government.

Because of political disputes with the president, PLC and FSLN deputies in the National Assembly enacted several constitutional changes during the year that transferred many presidential powers to the assembly, including control over property restitution, appointment and removal of ambassadors and government ministers, and control of public utilities and the state social security institute. The Bolanos government regarded most of these reforms as unconstitutional and refused to recognize them. In January the Central American Court of Justice declared the reforms an unconstitutional violation of the separation of powers mandated by the constitution. In October based on discussions with the OAS and foreign governments, the National Assembly passed a framework law specifying that the constitutional reforms to strip powers from the presidency would not take effect until a new National Assembly and presidential administration took office in January 2007 and had the opportunity to accept or reject the reforms.

Although the law provides that the Supreme Electoral Council (CSE) is an independent fourth branch of government, the CSE was highly politicized, subject to political influence, and did not function properly throughout the year. During 2004 nationwide municipal elections, which were marred by serious irregularities, there were credible allegations that the CSE invalidated results in key precincts to ensure that several close races were won by the PLC and FSLN. The CSE had previously attempted to deny legal status to parties other than the PLC and FSLN (see section 5). Growing doubts about the impartiality of the CSE led to increasing rates of voter abstention in recent elections.

There were 22 women in the 90-seat National Assembly and 4 women on the 16-member Supreme Court.

Two members of the National Assembly claimed indigenous heritage. In July President Bolanos named Javier Williams Slate, a member of the Miskito indigenous group, as vice foreign minister.

Government Corruption and Transparency.—The government continued its anticorruption campaign during the year, but its efforts were hampered by corruption and politicization in the judiciary, which dismissed a large number of controversial cases and released from confinement Byron Jerez, one of only two former government officials successfully prosecuted for corruption. In March Sandinista criminal court judge Edgard Altamirano refused to consider evidence of corruption and absolved Jerez for his role in the looting of the Nicaraguan Industry and Commerce Bank (BANIC) and lifted a 2003 judicial order preventing Jerez from leaving the country.

Sandinista appeals court judges Enrique Chavarria and Silvia Rosales also overturned Jerez's conviction and 8-year sentence in another corruption case, which involved 157 checks that Jerez personally wrote as director of taxation to shell companies that he had personally established. Media reports suggested that Jerez had bought his freedom via large payoffs to the Sandinista judges, Daniel Ortega, and other FSLN leaders.

Throughout the year National Prosecutor Julio Centeno Gomez, a personal friend of former President Aleman, refused to consider Panamanian evidence of the former president's corruption. Gomez actively obstructed Panamanian efforts to charge Aleman with money laundering in that country by refusing to deliver Panamanian judicial notices to Aleman and obstructing the efforts of the attorney general to do so. There was a widespread public perception of corruption and political deal-making in many state institutions, including the judiciary, the National Assembly, the CSE, the Office of the Controller General, the Office of the Human Rights Ombudsman (PDDH), and the Office of the National Prosecutor.

Although the constitution provides for public access to government information, no law defines a mechanism for the transmission of the information. There were no formal procedures for requesting information, explaining why access to information was denied, or appealing the denial of a request for access. In practice the government sometimes provided such access for citizens and noncitizens.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The autonomous, government-financed PDDH struggled with budget shortfalls, party politicization, and political infighting between Ombudsman Omar Cabezas of the FSLN and Deputy Ombudsman Adolfo Joaquin Ortel of the PLC. Cabezas, a former Sandinista guerrilla in the 1970s and a state security official in the 1980s, used the PDDH to promote the FSLN political agenda and staffed the office with FSLN party members. In July and August, leaders of several indigenous people's organizations, including the Miskito organization Yatama, publicly announced their intent to bring a lawsuit alleging human rights violations against Cabezas and several other leaders of the former Sandinista regime for actions involving indigenous communities during the 1980s (see section 5).

There were special ombudsmen for children's issues, women's issues, and indigenous affairs within the PDDH. In April Special Ombudsman for Children's Issues Carlos Emilio Lopez resigned his post, and in July and October the special ombudsmen for indigenous issues and women's issues resigned as well. All publicly stated at the time of their resignations that Cabezas has made it impossible for them to perform their jobs.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination on the basis of race, gender, disability, language, or social status, the government made little effort to combat discrimination. Few discrimination suits or formal complaints were filed with government officials.

Women.—The most prevalent violations of women's rights involved domestic and sexual violence, including spousal abuse, which were widespread and underreported. The law criminalizes domestic violence and provides up to six years' imprisonment for those found guilty. The law also provides for the issuance of restraining orders for women who fear for their safety.

In its 2004 report, the government's Women's Institute reported that government agencies provided psychological, medical, social, and legal assistance in 54,725 instances in which women reportedly suffered domestic abuse and noted that 72 percent of the abusers never were arrested. The Women's Institute also reported that 73 percent of cases of violence and sexual abuse against women took place in the home and that the majority of the abusers were spouses or ex-spouses. The NGO Women's Network reported that domestic violence led to the deaths of approximately 50 women per year.

The NNP and local human rights groups confirmed that while police sometimes intervened to prevent domestic violence, prosecutors rarely prosecuted perpetrators because victims allegedly failed to press charges or testify in court. Cases that reached the courts usually resulted in not guilty verdicts due to judicial inexperience and lack of legal training.

The law punishes sexual abuse, including spousal rape, and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between nine months and four years in prison. This penalty is increased to between 3 and 20 years if the victim is less than 10 years of age or if the perpetrator is a parent or guardian of the victim. Sexual abuse crimes often went unpunished because victims were reluctant to press charges or testify against perpetrators. The law was not effectively enforced because of insufficient government resources allocated for training prosecutors and judicial officials on the law regarding sexual abuse. According to the NNP, police received 1,212 rape complaints during the first 11 months of the year, compared with 1,327 reported instances of rape in 2004. Many women were reluctant to report abuse or file charges due to the social stigma attached to rape.

The police managed 24 women's commissariats, with at least 1 in each of the country's 17 departments. Whereas each commissariat was located next to a police station and was supposed to be staffed by six police officers, two social workers, one psychologist, and one lawyer, a lack of funding limited staff size. The commissariats provided social and legal help to women and mediated spousal conflicts, investigated and helped prosecute criminal complaints, and referred victims to other governmental and nongovernmental assistance agencies. The commissariats reported 9,533 cases of domestic violence and 2,207 cases of sexual crimes for the first half of the year. The government's Women's Institute reported that during the year, 46 NGOs and other members of the Women's Network located in several larger cities provided short-term shelter to battered women.

By year's end the Inter-American Court of Human Rights had not ruled on the 2003 complaint of Zoilamerica Narvaez that the government had denied her due process in 2002 by dropping sexual molestation, harassment, and rape charges against her stepfather, former president Daniel Ortega.

Prostitution is legal for persons 14 years of age and older, although the law prohibits its promotion, including procurement. Prostitution was common, and in Managua most prostitutes worked on the streets, clandestinely in nightclubs and bars, or offered sexual services in massage parlors. A tourism law prohibits the promotion of sex tourism, specifies that travelers engaging in sex tourism will be prosecuted, and calls for the revocation of operating licenses for organizations that promote sex tourism.

Although prohibited by law, sexual harassment in the workplace continued to be a widespread problem. Penalties were negligible, and the government made little effort to enforce the law.

The law provides for gender equality, but discrimination against women persisted. Salaries for male and female workers differed significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advanced more quickly than women. Women constituted the majority of workers in the traditionally low-paid education and health service sectors and were estimated by the government and NGOs to make up two-thirds of the informal economy.

The Office of the Human Rights Ombudsman and the Women's Institute are the two main government offices charged with ensuring the legal rights of women. The Women's Institute is responsible for implementing policies and programs to promote women's rights and interests. Women enjoy the same rights as men, including under family and property law.

Children.—Although the government publicly expressed its commitment to children's human rights and welfare, insufficient allocation of budgetary resources prevented the provision of adequate funding to children's programs and primary education. Children 15 years of age and younger constituted approximately 40 percent of the population.

Primary education was free and universal. Although the law provides for compulsory education through the sixth grade, the law was not enforced. According to ministry of education statistics, during the year rates of enrollment were estimated at 80 percent for primary school and 42 percent for secondary school. UNICEF statistics reported that only 29 percent of children complete primary schooling.

Although medical care was often limited, boys and girls had equal access. According to the Ministry of Health, the government devoted 8.6 percent of its budget to child health care.

Violence against children was a significant problem. From January to November, there were an estimated 2,451 cases of physical and sexual assault, 494 cases of statutory rape, 393 cases of kidnapping, and 21 cases of incest against minors. Additionally, 639 minors between 13 and 17 years old were rape victims, 219 minors under age 13 were rape victims, and 85 minors died due to violent crime. The NNP estimated that approximately 66 percent of sexual abuse victims were under the age of 18, and that 30 percent were younger than 13.

Child prostitution was a problem. While the law defines statutory rape as sexual relations with children who are 13 years of age and younger, there is no legal prohibition on prostitution by juveniles 14 years of age and older (see section 5, *Trafficking in Persons*).

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The law specifically prohibits trafficking in persons and assigns a penalty of up to 10 years in prison. There was evidence that the country was a source area for trafficking in women and girls to other countries for purposes of sexual exploitation. During the year the Ministry of Government's antitrafficking-in-persons liaison office coordinated the government's antitrafficking awareness campaigns for both the public and border police and immigration officials, significantly increasing public and official awareness of the problem. In addition the government operated an antitrafficking unit within the police department. The Foreign Ministry's consular officers in neighboring countries assisted with the repatriation of victims. The Ministry of Government has primary responsibility for combating trafficking.

There were two major trafficking prosecutions during the year, resulting in the conviction of four traffickers. In January authorities charged Daniela de la Asuncion Perez Castillo, Rosa Isabel Perez, Johana Elizabeth Perez Chavarria, and Jackeline Carolina Lopez Martinez with trafficking girls and women to Guatemala for the purpose of sexual exploitation. In April a Managua jury convicted all four women and sentenced three women to eight years in prison; the fourth received a 4-year sentence.

Government officials, NGOs, and other organizations characterized trafficking as a growing problem throughout the region. The government, NGOs, and media periodically reported cases of individual women trafficked to brothels in Guatemala and Mexico by well-organized criminal bands operating throughout Central America. Few cases were documented fully by the authorities, and there were no reliable statistics on the scale of the problem. The two main types of trafficking involved women moved from rural areas to urban nightclubs and massage parlors and women from urban areas, lured to brothels in neighboring countries by offers of legitimate employment.

The women's commissariats and the Ministry of Education conducted a nationwide trafficking awareness campaign at high schools, presenting high-risk youth with pamphlets and presentations warning them against the dangers of trafficking. The Ministry of Labor's inspectors conducted inspections of strip clubs several times during the year to ensure that they employed no underage workers.

The government-civil society national coalition against trafficking in persons carried out awareness campaigns, worked to improve coordination between the government and civil society in repatriation cases, and continued to undertake a major survey designed to provide the first reliable statistics on the extent of trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities, but in practice such discrimination was widespread in employment, education, access to health care, and in the provision of state services. The government did not effectively enforce the law with regard to protection of persons with disabilities. Despite some efforts, such as the creation of a special ombudsman for persons with disabilities during the year, the government's role in helping persons with disabilities was minimal and often was criticized. The government had not legislated or otherwise mandated accessibility to buildings for the persons with disabilities.

The National Council for Rehabilitation of the Ministry of Health addresses the needs of the estimated 535 thousand citizens with some type of disability, few of whom received medical treatment. Government clinics and hospitals provided care for war veterans and other persons with disabilities, but the quality of care was generally poor. During the year the government carried out a public relations campaign calling for greater integration of persons with disabilities in society.

Although the law obliges employers to enter into employment contracts with persons with disabilities, not to let disabilities affect salaries, and to consider persons with disabilities equal to other workers, the law rarely was enforced. Disabilities rights advocates contended that many national and local government officials either were unaware of the laws on equal opportunity or made no effort to put them into effect. Advocates also criticized the civil service law requirement that all government employees be "physically and mentally able," on the grounds that this contradicts constitutional provisions that all persons are equal before the law.

National/Racial/Ethnic Minorities.—Various indigenous and other ethnic groups from both the Northern and Southern Autonomous Atlantic Regions (RAAN and RAAS) sometimes linked the government's lack of resources devoted to the Atlantic Coast to discriminatory attitudes toward ethnic, racial, and religious minorities that predominate in that region. In contrast with the rest of the country, the region's racial makeup tended to be black and Amerindian, and its religious composition was principally Protestant denominations.

Indigenous People.—Indigenous people constituted approximately 5 percent of the country's population and lived primarily in the RAAN and RAAS. The four major identifiable indigenous groups were the Miskito, the Sumo, the Garifuna, and the Rama.

In June the IACHR ruled that the government had violated the rights of the Miskito and Sumo in 2000 when the CSE prevented the primarily indigenous Yatama political party from competing in municipal elections held that year. The IACHR determined that the government must acknowledge its violation of Yatama rights and pay \$80 thousand (1.36 million cordobas) in damages. The government agreed to abide by the ruling.

In July and August leaders of Yatama and other indigenous organizations announced their intent to bring before domestic and international tribunals charges of genocide and crimes against humanity against several former leaders of the Sandinista regime for the Red Christmas operation and other actions taken against the Miskito and other Atlantic Coast indigenous people during the 1980s. Those indicted included former President Daniel Ortega, his brother and former head of the Sandinista army Humberto Ortega, former Sandinista Minister of the Interior Tomas Borge, former Sandinista Director of State Security Lenin Cerna, and Omar Cabezas, former deputy at the Ministry of the Interior and current human rights ombudsman. Yatama leaders stated that they would first take their case to domestic tribunals but if they were denied justice, they would then take bring their complaint to the IACHR. By year's end Yatama had filed a formal complaint with the CPDH human rights NGO requesting its assistance in documenting the abuses to bring formal charges.

Although by law the government is required to consult indigenous people regarding the exploitation of their areas' resources, some indigenous groups and organizations, including Yatama, continued to complain that government authorities excluded Atlantic Coast indigenous people from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Representatives of autonomous regions and indigenous groups regularly complained to the government, media, and NGOs that the government made no effort to invest in infrastructure for the benefit of those who lived there. However, the government gradually implemented a 2004 agreement with local authorities to improve infrastructure in the region, including highway construction, potable water, health care, and education.

The majority of indigenous people in rural areas did not have access to modern health care, and deteriorating roads made medicine and health care almost inacces-

sible for many communities. Critics of government policy continued to point out extremely high unemployment rates among the indigenous, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic Coast engaged in subsistence fishing, farming, and mining.

Other Societal Abuses and Discrimination.—Although sexual orientation is not mentioned specifically, the constitution states that all persons are equal before the law and have the right to equal protection. The law provides specific protections for persons with HIV/AIDS against employment and health services discrimination. During the year there were no reports of police or other authorities perpetrating or condoning violence against persons based on sexual orientation or HIV/AIDS status, and there were no reliable statistics on the extent of societal discrimination based on sexual orientation or HIV/AIDS status. The government undertook minimal effort to address discrimination based on sexual orientation or HIV/AIDS status.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of all public and private sector workers, with the exception of those in the military and police, to organize voluntarily in unions, and workers exercise this right extensively. Transportation and agricultural workers were organized into cooperatives, which did not permit strikes. Representatives of organized labor groups criticized cooperatives, noting that they had inadequate grievance procedures, were intended to displace genuine, independent trade unions, and were dominated by employers. According to the Ministry of Labor, less than 10 percent of the work force was unionized.

Employers are legally required to reinstate workers fired for union activity, but they often did not do so. Additionally, the law allows employers to obtain permission from the Ministry of Labor to dismiss any employee, including union organizers, provided the employer agrees to pay double the usual severance pay.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to bargain collectively. While the government protected this right, it often sought to foster resolution of labor conflicts via informal negotiations rather than formal administrative or judicial processes. Companies engaged in disputes with employees must negotiate with the employees' union if the employees are organized. However, the possible existence of more than one union at a place of employment means that several unions, each with different demands, may coexist at any one enterprise. Under the law, management may sign collective bargaining agreements with each union.

Although the law recognizes the right to strike, legal strikes were rare. The labor code requires a majority vote of the workers in an enterprise to call a strike and also requires that before beginning the strike, the union receive approval from the Ministry of Labor. To obtain approval, the union must undertake a good faith negotiation process with management, which the labor ministry maintained was necessary to avoid purely political strikes. Union leaders, however, contended that the process is inappropriately lengthy and resulted in too few legal strikes. In its annual survey, the International Confederation of Free Trade Unions criticized the labor code's strike requirements, noting that since 1996, the government has declared only one strike to be legal.

While the law prohibits retribution against strikers and union leaders for legal strikes, this protection may be withdrawn in the case of an illegal strike. Unions sometimes declared strikes without completing the process, and during the year there were several such strikes by teachers and health care workers. If the Ministry of Labor ruled the strikes illegal, employers took advantage of the situation by firing the striking workers.

With a maximum fine of only \$620 (10 thousand cordobas), fines levied by the Ministry of Labor against employers violating the Labor Code did not serve as effective deterrents. In its annual report, the International Labor Organization (ILO) Committee of Experts noted that existing fines were inadequate, and emphasized the need for the government to implement legislation to provide effective monetary sanctions against employer interference in trade union affairs.

There were allegations of violations of the right to organize, most commonly that employers fired employees who were trying to form a union. The Ministry of Labor investigated these allegations and concluded that employers generally acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal or organize a union. Notwithstanding the legality of employer actions, the result was to weaken significantly the Sandinista Workers Central (CST) union in the free trade zones (FTZ).

The FTZ garment factory Mil Colores/Chaprich continued to experience serious labor problems. Union leaders, NGO representatives, and government officials credibly alleged that management fired dozens of workers without cause, failed to

give legally required severance payments to over a hundred others, and used funds taken from worker wages for legally mandated social security and health insurance to pay utility bills. The Ministry of Labor ordered the company to rehire illegally fired workers and meet its financial obligations to employees. By year's end the company had changed management and began to rehire some of the fired workers, provide severance payments to other workers, and pay what it owed to the state health insurance institute.

In February the CST and the management of the FTZ garment factory Nicotex settled a 2004 labor dispute over the firing of workers who attempted to organize a CST branch. The company agreed to rehire all fired union leaders who wished to return, pay the re-hired workers lost wages, and accept a CST union in the factory. The company, however, subsequently forced the resignation of union leaders and issued them severance payments. At year's end the CST union branch had not formed at the factory.

There were no special laws or exemptions from regular labor laws in the 36 FTZs. While many workers in the FTZs were represented by 1 of 27 different union organizations associated with 5 different labor confederations, less than 10 percent of FTZ workers were union members. Not all of these unions had real collective bargaining power. In its annual report, the ILO Committee of Experts expressed concerns that some collective agreements concluded in FTZs in 2001 were still not in force, that no new collective agreements had been concluded in the FTZs, and requested that the government take measures to encourage the negotiation of collective agreements in the export processing zones. Union organizing efforts encountered strong employer opposition in the FTZs. During the year the Ministry of Labor and the management of the government-owned corporation that oversees the FTZs settled disputes at KB Manufacturing and Guanica.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits any type of forced or compulsory labor (although it does not specifically address forced or compulsory labor by children), but such practices occurred in practice (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the law provides for the protection of children's rights and prohibits any type of economic or social exploitation of children, child labor was a widespread problem. The law prohibits child labor in areas such as mines and garbage dumps and imposes a maximum fine of \$620 (10 thousand cordobas) for illegal employment of children.

The law permits children from 14 to 16 years of age to work legally with parental permission but limits the workday for such children to 6 hours and prohibits night work. Although the law imposes fines for violators and permits inspectors to close facilities employing child labor, child labor rules rarely were enforced except in the small formal sector due to family economic needs, a cultural legacy of children working in rural areas, and a lack of effective government enforcement of the law.

The government reported that child labor occurred in both urban and rural areas, primarily in the informal sector, including family ventures. In Managua more than six thousand children worked on city streets, selling merchandise, cleaning automobile windows, or begging. The Ministry of Labor continued to report that some children were forced to beg by their parents, and that some parents rented their children to organizers of child beggars. Thousands of children scavenged in garbage dumps to salvage items to use and sell, and in rural areas children worked on farms and in abandoned mines. Tens of thousands of children also labored as domestic workers. Child prostitution was a serious problem (see section 5).

The Ministry of Labor is responsible for enforcing child labor laws, but the government did not allocate adequate resources to enable the ministry to perform its duties effectively. The ILO, foreign governments, and a number of domestic and international NGOs worked with the ministries of labor and family to curb the most egregious cases of child labor and put children into school. Programs targeted children working in garbage dumps and coffee farms and shifted thousands of children from work to school.

e. Acceptable Conditions of Work.—The statutory minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the National Assembly. Each key sector of the economy has a different minimum wage, which must be reviewed every six months. A new minimum wage scale took effect in April, raising the minimum wage by 11 to 16 percent, varying by sector. The minimum wage generally was enforced effectively only in the formal sector. The national minimum wage did not provide a decent standard of living for a worker and family. In every sector the minimum wage was below the \$155 (2,602 cordobas) that the government estimated an urban family needed monthly for a basic basket of goods.

Although the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly, this provision was routinely ignored by employers who often claimed that workers readily volunteered to work extra hours for extra pay. While the law mandates premium pay for overtime and prohibits excessive compulsory overtime, these requirements were not always effectively enforced.

The law establishes occupational health and safety standards, but the Ministry of Labor's Office of Hygiene and Occupational Security lacked adequate staff and resources to enforce these provisions, resulting in working conditions that often did not meet international standards. Workers in some factories in the free trade zones complained of poor working conditions, being forced to work unpaid overtime, and being told when they may use the toilet. During the year the Ministry of Labor, in conjunction with NGOs and foreign donors, provided training and resources to workers and employers to identify and resolve workplace hygiene and safety problems. The law provides workers with the right to remove themselves from dangerous workplace situations without jeopardizing their continued employment, but many workers were unaware of this right. There were no new developments, and none were expected, in the Ministry of Labor's 2004 investigation into the deaths of seven workers due to work-related accidents between January and August of that year.

Thousands of individuals claiming to be former banana workers affected by exposure to the pesticide DBCP in the 1970s and 1980s (when its use was legal) continued to press the government to take action on their behalf. Between February and May more than one thousand persons staged a march and camped out in a Managua field to draw attention to their claims. The government responded to their concerns by assisting many of them to obtain passports and other travel documents so that they could travel abroad to give testimony in cases pending in foreign courts. At year's end several hundred lawsuits claiming tens of billions of dollars in damages remained pending in domestic and foreign courts.

PANAMA

Panama, a representative democracy with an elected executive composed of a president and two vice presidents, has a population of approximately 3 million. In 2004 national elections, which were considered by international and domestic observers to be generally free and fair, voters elected as president Martin Torrijos of the Democratic Revolutionary Party (PRD). The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there continued to be serious problems in several areas. The following human rights problems were reported:

- harsh prison conditions, with reports of abuse by prison guards
- prolonged pretrial detention
- judicial system subject to corruption, inefficiency, and political manipulation
- political pressure on the media
- discrimination and violence against women
- trafficking in persons
- discrimination against indigenous people and other ethnic minorities
- child labor

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—During the year there were no reports that the government or its agents committed arbitrary or unlawful killings.

There were no new developments during the year concerning the 2004 request of the Fourth Superior Prosecutor that two off-duty Panamanian National Police (PNP) officers be tried for homicide in the 2001 killings of two men whose bodies were found on the beach in Punta Chame.

There were no developments regarding the Torrijos administration's 2004 communication to the Inter-American Commission on Human Rights regarding its interpretation of a document signed by former president Moscoso in 2004 by which the country accepted responsibility for certain crimes committed during the 1968–89 military dictatorship.

There were no developments in the 2002 petition before the Inter-American Commission on Human Rights regarding the 1970 disappearance and death of Heliodoro

Portugal or the ordered detention of Ricardo Garibaldo in connection with Portugal's death. Garibaldo's whereabouts were unknown at year's end. It was believed that he fled the country in 1990 or 1991.

The Office of Truth Commission Continuation's solicitation of the opening or reopening of 16 cases and continued pursuance of 17 other cases of killings during the 1968–89 military dictatorship remained ongoing at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

Ana M. Gomez, who was appointed attorney general in January, named a temporary prosecutor to follow up on the Truth Commission Continuation's 2004 request to investigate 33 cases of killings or disappearances during the 1968–89 military dictatorship. There were no new developments regarding the identification of 16–20 human bodies found buried on the former penal island of Coiba. The Truth Commission Continuation continued to lack funds to conduct DNA tests to identify the remains and the area continued to be unguarded.

There were no reports of kidnapping, rape, or harassment by Colombian insurgents in Darien or Kuna Yala provinces.

There were no reports of politically motivated disappearances

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Prison guards occasionally abused inmates. While admitting there were complaints against prison guards, the PNP's Professional Responsibility Office (DRP) did not provide statistics on the number of complaints of alleged police abuse against prison inmates.

As of the end of June, the PNP was investigating 26 cases of spousal rape by PNP officers.

In March four high-ranking PNP officers stationed in Darien Province were detained on charges of sexual abuse of minors. At year's end parallel investigations were ongoing at the Public Ministry and the PNP (see section 5).

Prison and Detention Center Conditions.—Prison conditions remained harsh and, in some cases, life-threatening. By December the prison system, which had an official capacity of 7,213 persons, held 11,748 prisoners. Most prisons remained dilapidated and overcrowded. Many of the problems within the prisons continued to be due to lack of separation of inmates according to the type or severity of the crime committed.

Abuse by prison guards, both PNP and civilian, was a recurrent problem. Police officials received and investigated 34 cases of alleged abuse by prison guards from January through June.

The Association of New Men and Women of Panama, a gay and lesbian rights group, reported that there were at least two attempted killings of gay inmates by other inmates during the year. It was unclear whether these incidents were under investigation.

Medical care for prisoners was inadequate. AIDS, tuberculosis, and other communicable diseases were common among the prison population.

During the year the La Joya and La Joyita prisons continued to experience water shortages. Although authorities made renovations, the water system only worked two hours each day. The European Union continued to fund some legal, medical, and dental staff for prisons. There was at least one doctor in each major facility. As of mid-September, 16 inmates had died.

The General Penitentiary Inspection Directorate (DGSP) replaced 60 civilian correction officers who resigned or were fired.

The DGSP largely depended on 1,500 PNP officers to supply both internal and perimeter security at all prisons. There were 440 custodians for the entire prison system, which necessitated the use of regular PNP officers to fill staffing gaps. PNP officers sometimes were untrained for prison duty and reportedly found the assignment distasteful, which contributed to tension and abuses within the prison system. In prisons controlled by the PNP, prisoners complained of ongoing human rights violations, such as limited time outside of cells and limited access to family visits. Civilian custodians handled inmates within Nueva Esperanza, Tinajitas, El Renacer, and the central women's prison, which used only female guards. The DGSP did not have authority to discipline prison guards with criminal or civil sanctions; only the PNP disciplinary board could sanction a PNP agent or a custodian.

The main prisons in Panama City included La Joya (a maximum-security facility), La Joyita, Tinajitas, the Feminine Center (women's prison), and the Juvenile Detention Center. An additional facility, El Renacer, held inmates generally accused of less serious crimes. Despite a 2004 ombudsman's office recommendation that the government begin closing La Chorrera prison due to overcrowding and unsanitary conditions, the government had not done so by year's end.

In June an inmate at La Chorrera was killed by a cellmate. An investigation by the prison authorities determined that the killing was an act of self defense.

Small jails attached to local police stations around the country sometimes held prisoners for the entire length of their sentences, but the police who guarded them lacked the necessary custodial training to prevent abuses.

Female prisoners were held separately from male prisoners, and juveniles were held separately from adults. In Nueva Esperanza prison in Colon province, both male and female pavilions had separate sections for inmates convicted of administrative felonies and those convicted of violent crimes. Pretrial detainees often shared cells with sentenced prisoners due to lack of space. A pilot program for inmate classification was initiated in the El Renacer prison.

Even though conditions at women's prisons and at juvenile detention centers were noticeably better than at adult male prisons, female prisoners, especially in primary detention areas, reportedly suffered from overcrowding, poor medical care, and lack of basic supplies for personal hygiene.

With the exception of one modern facility near Panama City, juvenile pretrial and custodial detention centers throughout the country suffered from inadequate resources to provide for education or supervision. An NGO provided classes on arts and crafts and sewing to some minors in detention.

The law's conditional release programs for inmates charged with minor offenses who have served a substantial part of their sentences were not implemented consistently. During the year the government granted 750 conditional releases to inmates who had served two-thirds of their sentences. By September more than two thousand inmates who had served two-thirds of their sentences remained in prison.

Although the government generally allowed prison visits by independent human rights observers, during a July visit by a Catholic priest, media representatives complained that prison security guards mistreated them and temporarily confiscated their cameras. Prison authorities claimed that media representatives had not requested clearance for the equipment ahead of time as stipulated in procedures. The ombudsman's office had an established prison visit program, and the government generally allowed ombudsman staff to speak with prisoners without monitoring. Prisoners expressed fear of retaliation if they complained. *Justicia y Paz*, the Catholic Church's human rights monitoring group, brought prison abuses to the attention of the authorities. The Association of New Men and Women of Panama alleged that prison authorities denied two requests by the organization during the year to conduct AIDS education and training in prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The law permits exceptions when an officer apprehends a person during the commission of a crime or when an individual interferes with an officer's actions. Whereas the law provides that suspects be brought promptly before a judge, lack of prompt arraignment continued to be a problem. The law requires arresting officers to inform detainees immediately of the reasons for arrest or detention and of the right to immediate legal counsel. There is a functioning bail system, and detainees were allowed prompt access to family members. Police arrested and detained children for minor infractions during neighborhood sweeps (see section 5).

Role of the Police and Security Apparatus.—The Judicial Technical Police (PTJ) and PNP are the only police agencies in the country. Although its primary mission is law enforcement, the PNP is also detailed for prison and border security. The country had no army. The PNP is under the civilian authority of the Ministry of Government and Justice. There were approximately 15,270 police officers. The PTJ, a semiautonomous body under the Office of the Attorney General with leadership appointed by the Supreme Court of the Republic, was a separate branch of law enforcement and performed criminal investigations in support of public prosecutors. The law includes specific guidelines for the use of force, including deadly force; requires that police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior. Although the PNP provided some training during the year, not all PNP staff members were trained in the use of force. The Office of the Ombudsman (Defensoria del Pueblo) provided human rights and legal training to PNP officers assigned as prison guards. An additional 57 members of the PNP attended various training courses abroad.

The PTJ and the PNP had offices that held officers accountable for their actions. Both had staffs of independent investigators, administrative authority to open internal investigations, and a defined legal process.

The PNP's deputy director and the secretary general addressed human rights problems that arose in the police force. The PTJ office received an average of 21 complaints per month up to June. The human rights ombudsman also received com-

plaints against the police for abuse of authority but did not provide statistics (see section 4). As of June the PNP Office of Professional Responsibility had received 399 complaints (including 94 cases of improper behavior and 78 cases of physical mistreatment), an average of 16 complaints per week, an increase from 10 per week in 2004. Through mid-June, the office imposed penalties on 100 officers, including reductions in rank, criminal prosecutions and dismissals.

In March authorities detained four high-ranking PNP officers stationed in the Darien Province on charges of sexual abuse of minors. As of August parallel investigations were ongoing at the Public Ministry and the PNP (see section 5). At year's end, one of the officers had been dismissed from the PNP and the other three remained under investigation.

The PTJ received complaints from the public, and officers could make anonymous complaints of corruption and other problems. By June the PTJ Office of Professional Responsibility had conducted 128 investigations, resulting in the dismissal of 16 agents.

Corruption among police officers remained a problem. Although PNP and PTJ directors sometimes enforced disciplinary measures against officers with proven involvement in illicit activities, in general both organizations took corrective actions only in reaction to cases of egregious abuses. In March authorities suspended and requested the dismissal of PTJ Deputy Director General Eric Bravo on charges of manipulating an investigation to favor several personal friends. As of December the Supreme Court of Justice had not ruled on the issue, and Bravo remained suspended.

Arrest and Detention.—The law provides for judicial review of the legality of detention, mandates the immediate release of any person detained or arrested illegally, and prohibits police from detaining suspects for more than 24 hours without bringing them before a judge. The preliminary investigation phase may last from eight days to two months and the follow-on investigation phase another two to four months, depending on the number of suspects. The courts frequently granted extension of time limits, leaving the accused in detention for long periods without formal charges. Many observers, including court officials, criticized judges for excessive use of this measure. While the law provides for bail, judges often declined to grant it. Detainees were allowed prompt access to legal counsel and family members, and the government provided indigent defendants with a lawyer.

There were no reports of political detainees.

Extended pretrial detention continued to be one of the most serious human rights problems, due in part to the elaborate notification phase in criminal cases. According to government statistics, 7,300 prisoners, or approximately 63 percent of the prison population, were pretrial detainees. The average period of pretrial custody was 24 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judicial system was susceptible to corruption and outside influence, including manipulation by other branches of government. The president appoints 9 supreme court of justice magistrates to 10-year terms, subject to national assembly ratification. Supreme court magistrates appoint appellate (superior tribunal) judges, who appoint circuit and municipal court judges in their respective jurisdictions. Although judicial appointments were supposed to be made under a merit-based system, the system was undermined by political influence and interference by higher-level judges.

At the local level, mayors appoint administrative judges (*corregidores*), who exercise jurisdiction over minor civil cases and who hold wide powers to arrest and impose fines or jail sentences of up to one year. Outside of Panama City, this system had serious shortcomings. Defendants lacked adequate procedural safeguards. Administrative judges usually were not attorneys, had not completed secondary education and in some cases, were corrupt. In practice, appeal procedures were nonexistent. Affluent defendants often paid fines while poorer defendants went to jail, contributing to prison overcrowding (see section 1.c.).

Trial Procedures.—The law provides that all citizens charged with crimes have the right to counsel, to be presumed innocent until proven guilty, to refrain from incriminating themselves or close relatives, and to be tried only once for a given offense. If not under pretrial detention, the accused may be present with counsel during the investigative phase of the proceeding.

Trials are open to the public. The law provides for trial by jury at the defendant's election but only in cases where at least one of the charges is murder. Judges may order the presence of pretrial detainees for the rendering or amplification of statements or for confronting witnesses. Trials were conducted on the basis of evidence

presented by the public prosecutor. Whereas defendants have the right to be present and to consult with an attorney in a timely manner, the law sometimes permits trials without the accused being present. Defendants can confront or question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right of appeal.

The law obliges the government to provide public defenders for the indigent. However, many public defenders were appointed late in an investigation, after the prosecutor already had evaluated the bulk of the evidence and decided either to recommend trial or to dismiss the charges. Public defenders' caseloads remained extremely high, averaging over 500 cases per attorney per year.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Whereas the law prohibits such actions and the government generally respected these prohibitions in practice, there were complaints that in some cases, law enforcement authorities failed to follow legal requirements and conducted unauthorized searches.

In an effort to prevent unauthorized searches, the Public Ministry placed a representative, whose job was to approve searches, in each of the PTJ's divisions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press. Individuals had complete liberty of expression, and there were no attempts to impede it. In the past the government and public figures used libel and disrespect-for-authority laws to confront and intimidate journalists who allegedly behaved irresponsibly or besmirched the honor of a particular government institution or leader. The ombudsman's office reported that during the year, no journalists or reporters were charged with criminal libel or injury; 15 persons were charged under these laws in 2004.

The independent media were active and expressed a variety of views without restriction. The government owned one educational television station (RTVE/11) and one radio station (Radio Nacional). The law prohibits newspapers from holding radio and television concessions, and vice versa.

On June 29, the government eliminated "gag laws," but pending legal actions remained against many journalists. The IAHCR, the Inter-American Press Association, Reporters Without Borders, and other groups criticized these measures as efforts to censor the press. There continued to be no reform of the law regarding criminal libel.

At year's end there remained pending approximately 15 libel cases against journalists, including that of former agricultural minister Linnette Stanzola Apoloya against journalists Rafael Berocal and Sady Tapia. On August 17, the Marcel Chery and Gustavo Aparicio cases reappeared on the court docket.

In August supreme court of the republic justice Winston Spadofora filed a \$2 million (2 million balboas) civil damage lawsuit against journalists from *El Panama America* for reporting the construction of a private road near Spadofora's house using public funds. High-level officials, including the president, expressed concern regarding the motivations and consequences of such lawsuits.

In June President Torrijos signed and executed Law 22 abolishing the censorship board, which had monitored radio transmissions and had been authorized to sanction stations that violated norms regarding vulgar, profane, or obscene language.

There were no governmental restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. There was one case of police abuse reported during May and June demonstrations against social security reforms. The police agent involved received an administrative reprimand for unnecessarily striking a demonstrator with a baton.

There were concerns about insufficient police presence at a June 24 gay pride march. Although police authorities permitted the march to take place, they assigned only one police officer to cover the event, in contrast to customary police practice at other marches where enough police were sent to protect marchers and direct traffic.

There were no further developments in cases relating to police brutality allegedly inflicted on 22 detainees held in connection with a 2004 incident in Bocas del Toro. During that incident, more than 28 persons were injured, including 24 police officers, when anti-riot police attempted to open roads closed by residents demonstrating against the local private utility company (see section 1.d.).

c. Freedom of Religion.—The law provides for freedom of religion on condition that “Christian morality and public order” are respected, and the government generally respected this right in practice.

The law prohibits clerics from holding public office, except positions related to social assistance, education, or scientific research. Roman Catholicism enjoyed certain state-sanctioned advantages over other faiths, including the teaching of Catholic theology in public schools. Parents, however, had the right to exempt their children from religious instruction.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There was a Jewish population of approximately 10 thousand persons.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. A 9:00 pm curfew instituted in 2004 for unaccompanied minors in the Panama City and San Miguelito areas remained in effect.

The law prohibits forced internal or external exile, and there were no reports of its use.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government sometimes granted refugee status or asylum. A 1998 decree grants protection to all persons entering the country due to “state persecution based on race, gender, religion, nationality, social group, or political opinion.” The decree grants two months’ temporary protection to “displaced persons” in the case of a large influx; however, in practice, the government did not enforce the 2-month time limit. The 1998 decree provides for a meeting by the government’s refugee commission every three months to determine the status of persons seeking refugee status. The commission met in April and August and granted asylum to 40 persons.

According to the Office of the UN High Commissioner for Refugees (UNHCR), there were 533 displaced Colombians under temporary protective status in the country. Many of them had given birth to children in the country. The government did not permit displaced Colombians to move or work outside of their assigned villages. Although the government was reluctant to classify displaced Colombians as refugees, it took some steps with the government of Colombia and UNHCR to regularize the status under other immigration categories of Colombians, some of whom had lived in the country for years without formal refugee status.

In July the UNHCR stopped providing food for displaced persons and reassigned these funds for training refugees in baking, sewing, planting crops, and other skills. The Catholic Church and NGOs continued to assist the displaced Colombians with infrastructure and income generating projects. The International Committee of the Red Cross continued to provide some limited assistance to the approximately 40–50 displaced Colombians living in the remote Alto Tuira border area. The 533 displaced Colombians who remained in the country informed the government and the UNHCR that they did not want to return to Colombia due to current family and cultural ties with local communities.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. Pursuant to a 2004 agreement with the government, UNHCR had a permanent office in Panama City and was granted unimpeded access to refugees and UNHCR project sites. In July the UNHCR closed its regional office in Darien.

Authorities continued to refuse entry to Colombians who arrived by air and could not show that they had at least \$500 (500 balboas).

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The law provides for direct popular election by secret ballot of the president, the vice president, legislators, and local representatives every five years. Naturalized citizens may not hold certain categories of elective office. The independent Electoral Tribunal arranges and supervises elections.

Elections and Political Parties.—Democratic Revolutionary Party (PRD) candidate Martin Torrijos won the presidency in 2004 national elections characterized by domestic and international observers as generally free and fair.

The law requires new political parties to meet strict membership and organizational standards to gain official recognition and participate in national campaigns. The law also requires political parties to be structured democratically, permits independents to campaign for the National Assembly, increases the autonomy of the Electoral Tribunal, and limits the immunity of representatives in the National Assembly by permitting the Supreme Court of Justice to prosecute criminal cases against representatives.

Women held 11 of 78 National Assembly seats. There were 2 women in the 13-member cabinet and 2 female judges on the Supreme Court of Justice, one of whom was appointed Chief Justice. In January a woman was appointed attorney general. Among ethnic minorities, there was one black male in the cabinet and on the Supreme Court of Justice, and there were dedicated seats for two Kuna Yala *comarca* and three Ngobe-Bugle *comarca* legislators in the National Assembly. In addition to the five dedicated seats, Bocas del Toro elected one Ngobe legislator to the National Assembly. Neither the Madugandi nor the Embera-Wounaan reserve had its own dedicated legislators.

Government Corruption and Transparency.—Public perceptions of executive and legislative corruption remained high. A poll conducted during the year identified corruption as the third greatest national problem after unemployment and the high cost of living. In comparison with previous years, there were fewer hindrances to judicial follow up of accusations of corruption against members of the National Assembly. A National Anti-Corruption Commission was established by the Torrijos administration in 2004. The government continued to audit accounts on an agency level, rescind improperly granted diplomatic passports, dismiss employees for malfeasance, and bring charges against officials for petty corruption.

The transparency law provides public access to information from and about public entities, with the exception of cabinet meeting minutes. The solicitor general, however, narrowly interpreted the constitution to limit disclosure by notaries of statements of assets held by public officials.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights organizations operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The ombudsman's office, headed by Juan Antonio Tejada Espino, had moral but no legal authority. The ombudsman's office operated without government or party interference and had adequate resources. The government cooperated with the ombudsman, who was considered effective. During the year the office received complaints against the government.

Attorney General Ana M. Gomez, who was appointed in January, named a temporary prosecutor to follow up on the 2004 request by the Office of Truth Commission Continuation to investigate 33 cases of killings and 25 cases of disappearance during the dictatorship that ended in 1989 (see sections 1.a. and 1.b). The Public Ministry assigned special funds to support excavations and investigations into the 1971 disappearance of Colombian-born Catholic priest Hector Gallego. The Truth Commission questioned why this particular case received special funding while other cases received no additional resources.

Section 5. Discrimination, Societal Abuse, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, disability, language, or social status and the government effectively enforced these prohibitions in practice. Societal prejudices persisted. Although the law specifically prohibits discrimination involving entry to public or commercial establishments and sets fines from \$250 to \$1 thousand (\$250 to \$1 thousand balboas) for violations, many commercial establishments continued openly to operate a "right of admission" policy, discriminating against dark-skinned persons. Cases of discrimination were difficult to prove, and legal remedies were complicated and time-consuming for victims.

Women.—Domestic violence against women continued to be a serious problem. Approximately three thousand cases of domestic violence are reported to the PNP each year. The Family Code criminalizes rape, spousal rape, and family violence, including psychological, physical, or sexual abuse, and provides prison terms of one to five years. Convictions for rape were rare. There also were few convictions for domestic violence because victims generally chose spousal therapy over prosecution. Abusers

were commonly convicted of unintentional killing in cases of spousal death. By June the PTJ registered 911 cases of domestic violence. The PTJ also recorded 352 cases of rape and 81 cases of attempted rape by June. At year's end the PNP's DRP reported that its office investigated cases of domestic violence and rape committed by officers during the year. As of June 30, the PNP was investigating 26 cases of spousal rape committed by PNP officers.

The Support Center for Abused Women (CAMM) operated one temporary shelter for abused women and children funded by private donations and staffed by volunteers. The shelter did not serve women who had been abused outside of the domestic relations context. CAMM also provided domestic violence victims with health and legal services, counseling services for women and their domestic abusers, and a hotline.

The Foundation for the Promotion of Woman (FUNDAMUJER) and the Center of Colon Women (MUCEC), among other women's advocacy groups and government agencies, operated programs to assist victims of abuse and to educate women on their legal rights.

Prostitution was legal and regulated, but there was no information available on the extent to which it occurred.

Trafficking in women was a problem (see section 5, Trafficking).

The law prohibits sexual harassment in cases of established employer/employee and teacher/student relations, and violators can receive 1- to 3-year prison sentences. The extent of the problem was difficult to determine because convictions for sexual harassment were rare, and pre-employment sexual harassment was not actionable. Due to the few cases brought before the courts, effectiveness of law enforcement could not be judged.

The law prohibits discrimination on the basis of gender, and women had the same rights as men, including rights under family law, property law, and the judicial penal system. The law recognizes joint or common property in marriages, but the government did not allocate sufficient resources to enforce the law effectively.

The law mandates equal pay for men and women in equivalent jobs, but women on average received wages that were 30 to 40 percent lower than those received by men. Although women constituted the majority of workers in many service jobs such as office workers (72 percent), teaching (71 percent), and hotel and restaurant work (58 percent), women occupied only 40 percent of management and executive positions. There were some reports of irregular hiring practices based upon age and appearance.

Unlike in previous years, there were no reports of discrimination against female politicians.

The Ministry of Social Development, through the National Directorate of Women, promoted equality of women in the workplace and equal pay for equal work, attempted to reduce sexual harassment, and advocated legal reforms. A number of private women's rights groups disseminated information about the rights of women, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms.

Children.—The government was committed to children's rights and welfare. Education is compulsory through the ninth grade and the law establishes free public education through high school. Children did not always attend school due to traditional attitudes, financial and economic constraints, lack of transportation, too few secondary schools, and insufficient government resources. The problem was most extreme in Darien Province and among indigenous groups. According to the 2000 census, 65 percent of children nationally between the ages of 15 and 19 had some schooling beyond sixth grade. In the Embera and Ngobe-Bugle *comarcas*, however, approximately 18 percent of children in the same age group had schooling beyond sixth grade.

Schools did not differentiate in their treatment of boys and girls. School attendance figures were identical for boys and girls through elementary school. Beginning at the junior high level, more girls attended school than boys (130 thousand vs. 125 thousand).

The government furnished basic health care for boys and girls on an equal basis through local clinics run by the Ministry of Health, but clinics were difficult to reach from rural areas and often lacked medicine. Malnutrition and inadequate medical care were generalized problems, and were most severe among rural indigenous groups. A central children's hospital in Panama City operated with government funds as well as private donations. In June the government held health fairs around the country to provide children with vaccinations, dental exams, and medical check-ups.

By June the PTJ registered 150 cases of child abuse and neglect. Sexual abuse, including incest, accounted for 111 of these cases. Lack of reporting remained a

problem, often because of parental involvement or complicity. Sexual abuse of children was reported in both urban and rural areas, as well as within indigenous communities. The Public Ministry and PNP conducted investigations regarding the detention of four high-ranking PNP officers stationed in Darien Province on charges of sexual abuse of minors (see section 1.d).

By August the Ministry of Social Development had received 1,073 complaints regarding the physical abuse of children. During the year the ministry established a free phone line for psychologists and social workers for children to report abuses. The ministry also implemented a television campaign encouraging its use. The ministry received more than 35 thousand calls mainly related to physical abuse 14,038 and sexual abuse 1,995. Victims were directed to police authorities, hospitals, and protection centers for support. Child neglect was a problem.

Due to inadequate government resource allocations and training, family courts continued to render controversial decisions, including the return of children to abusive situations. By December the juvenile penal courts in Panama and Colon provinces reported 925 new cases against juveniles.

Gang recruitment of minors by young adults was an increasing problem. Police arrested and detained children for minor infractions during neighborhood sweeps. Trafficking in children and child labor were problems (see sections 5, Trafficking and 6.d.).

Trafficking in Persons.—The law prohibits trafficking in men, women, and children. However, there were reports that persons were trafficked to, from, or within the country. The magnitude of the problem was difficult to determine because the country was a transit point for illegal economic migrants who were not forced into prostitution or debt bondage, but who used the same routes as smugglers.

The Ministry of Government and Justice (MOGJ) is responsible for developing policies to reduce trafficking in persons, and the Ministry of Social Development (MIDES) has responsibility for protecting victims through shelters and related services. The PTJ's Sex Crimes Unit is charged with investigating and arresting persons involved in trafficking.

The law penalizes trafficking and pornography, and proscribes the promotion of sex tourism and use of the Internet for soliciting victims for trafficking and sexual exploitation. Persons who engage in human trafficking for purposes of sexual activity can receive five to eight years in prison, or in the case of a minor, eight to ten years. The law eliminates the need for a complaint to initiate an investigation, and permits undercover operations and the monitoring of suspects' computers in sex crime cases. The National Committee for the Prevention of Sexual Crimes (CONAPREDES) provided additional funding for combating trafficking and for victims' assistance. However, a proposal to fund CONAPREDES through a tax on the rental of adult videos or through the airport departure tax was not adopted by year's end.

The government allocated inadequate funding and resources to the PTJ sex crimes unit. As of May the PTJ's sex crimes unit had investigated six cases of sexual trafficking, six cases of child pornography, and two cases of procurement of persons for commercial sexual activities. During the year there were no arrests for sexual exploitation or sexual tourism. The prosecutor's office initiated its own investigations, but the government provided it with inadequate resources to conduct undercover investigations or to perform its other duties. The Public Ministry learned about one case involving child pornography only because of a request for information from INTERPOL. Information sharing between the government and other countries occurred but needed to be strengthened, as did coordination among the PTJ sex crimes unit, the PNP, and immigration authorities.

The country was a destination point for trafficked women. There was evidence that rural children were trafficked internally to work as domestic servants in urban areas. Colombia remained the primary country of origin for trafficked women, followed by the Dominican Republic. Although many Colombians and Dominicans came willingly to the country, apparently intending to become prostitutes, anecdotal evidence suggested that some were forced to continue as prostitutes after they wanted to end involvement.

The country was a transit point for Colombian sex workers to other Central American countries and the United States. Although some of these women were assumed to be trafficking victims, the government could not verify numbers. Alien smuggling remained a widespread problem, with most aliens coming from Ecuador, Peru, Colombia, China, and India, and transiting the country by means of smuggling networks enroute to the United States. Some were trafficked for debt bondage, including Chinese debt bondage within the country.

The PNP and the Immigration Department conducted raids every two to three months on bars and brothels, but lack of government funding limited undercover op-

erations. In May authorities arrested and charged with procurement a foreign national who owned a club with female dancers. At year's end the defendant was free on \$15 thousand bail and was required to remain in the country while the case was under investigation. In May the Immigration Department and the PTJ sex crimes unit investigated a massage club where Colombian workers complained that the owners seized their passports. In many of the cases investigated for possible trafficking violations, defendants alleged that the purported trafficking victim could not have been trafficked because that person entered the country as a visitor and then applied for an *alternadora* visa. The holder of an *alternadora* visa is legally permitted to engage in commercial sexual activities. During the year despite opposition from the attorney general's office, the Immigration Department reinstated the *alternadora* visa.

Commercial sexual exploitation of minors continued to be a problem. Commercial sexual exploitation remained primarily an internal issue. However, perpetrators included foreigners, and there continued to be limited evidence of international trafficking networks of minors to or through the country. NGO and government efforts in prevention and education remained limited by lack of resources and coordination problems.

The law does not hold trafficking victims criminally responsible for prostitution or immigration crimes and provides for indemnification of costs of medical and psychological treatment, temporary housing, legal fees, and emotional suffering, even if the victims return to their native country.

The Ministry of Social Development continued providing shelter and other services to victims of commercial sexual exploitation, using substitute families, its own shelter, and the shelter of a nongovernmental organization it subsidized.

During the year the government worked with the International Labor Organization (ILO) on trafficking issues, including the production of pamphlets on sexual exploitation and trafficking. In May the ILO held a workshop for 40 media representatives to educate them about trafficking and the need to protect victims' identities. In October the government published its first Anti-TIP manual for police and other government officials.

Persons with Disabilities.—The law prohibits discrimination based on physical or mental disability, but substantial discrimination continued against persons with disabilities in employment, education, access to health care, and the provision of other state services. Most public schools did not have adequate facilities for children with special needs. However, the government took some steps, including installing ramps in schools and some mainstreaming of children with disabilities, to decrease discrimination. The law mandates access to new or remodeled public buildings for persons with disabilities and requires that schools integrate children with special needs. During the year approximately 65 public schools built ramps and admitted deaf, blind, and mildly mentally-retarded children, as well as children with Down's syndrome. Children with severe physical disabilities were not included in the mainstreaming effort. Private schools built ramps to comply with the law mandating access, but very few admitted children with special needs.

The National Secretariat for Social Integration of the Disabled (SENADIS), formed in September 2004, was responsible for protecting the rights of persons with disabilities. It coordinated and provided technical assistance to government and civil society efforts to decrease discrimination against and increase inclusion of persons with disabilities. The Council for the Social Integration of the Disabled supported the secretariat and was composed of members of civil society and several ministries. The Ministry of Education was responsible for educating and training minors with disabilities over the age of four, while the Ministry of Social Development provided training to children under four.

The government ruled that as of August persons with disabilities would receive free medical treatment at all public hospitals and clinics. The Ministry of Labor was responsible for placing workers with disabilities in suitable jobs. Despite a 1999 law requiring mandatory employment of at least two percent disabled personnel, placement remained difficult due to employer reluctance to hire workers with disabilities. Persons with disabilities also tended to be paid less than employees without disabilities for performing the same job.

Panama City's building code requires that all new construction projects meant to serve the public be accessible to persons with disabilities, with fines for the public sector from \$100 (100 balboas) to \$500 (500 balboas) for noncompliance. A national law with similar requirements for new construction projects generally was not enforced, and in some cases the ramps built did not comply with the minimum legally required lengths and widths. Also, some handicapped designated parking spaces were not wide enough to allow for exit and entry of wheelchairs. The Secretariat began a campaign to increase voluntary compliance.

Awareness of disability issues increased under the Torrijos administration, and commercial establishments more regularly provided and enforced respect for handicapped parking spaces. By year's end the government was developing a national plan for addressing disability issues. However, basic amenities, such as handicapped-accessible sidewalks and bathrooms, were largely unavailable.

National/Racial/Ethnic Minorities.—Minority groups generally have been integrated into mainstream society, but there remained problems with discrimination against blacks, indigenous people, and other minorities. Discrimination against the country's newer immigrants, especially Chinese, sometimes was overt. There were an estimated 150 thousand to 200 thousand persons of Chinese descent. Cultural differences and language difficulties hindered many Chinese immigrants from fully integrating into mainstream society. Racial slurs directed at Asians continued to be used openly among the general population, and substantial numbers of first-generation resident Chinese frequently were treated as second-class citizens. However, second and third generation Chinese were seen as distinct from recent immigrants and generally were accepted in society if they assimilated.

Along with the Chinese, Middle Eastern and Indian residents also continued to suffer from racially motivated discriminatory treatment. All three groups often worked in the country's retail trade, particularly in urban areas. Legal and illegal immigrants were accorded fewer legal protections than citizens for their trade activities. A constitutional provision reserving retail trade for Panamanian citizens was not enforced in practice; however, immigrants legally could not own their businesses as sole proprietorships and sometimes encountered bureaucratic difficulties in practicing their professions.

Racism against blacks was generally subtle, and often connected with admission or entry to restaurants, clubs or other commercial establishments. Blacks comprised at least 14 percent of the population, but were underrepresented in the highest positions of political and economic power. Many blacks remained clustered in the economically depressed province of Colon and poorer neighborhoods of Panama City.

The country's lighter skinned elite discriminated against citizens with darker skin through preferential hiring practices in the private sector and manipulation of government resources in the public sector.

Racial discrimination against minority ethnic groups was evident in the workplace. In general, lighter skinned persons were represented disproportionately in management positions and jobs that required dealing with the public, such as bank tellers and receptionists. In response to complaints about discrimination, in March the president formed the Black Ethnic Commission, with a one year mandate to develop a plan for more effective inclusion of blacks in all aspects of society.

Indigenous People.—The law affords indigenous people the same political and legal rights as other citizens, protects their ethnic identity and native languages and requires the government to provide bilingual literacy programs in indigenous communities. Indigenous people, who comprise approximately 9.5 percent of the population, have the legal right to take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. There were indigenous reserves, governed by tribal chiefs, for five of the country's seven indigenous groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna. The much smaller Bri-Bri and Naso tribes, residing near the border with Costa Rica, did not have officially recognized enclaves.

The Ministry of Government and Justice maintained an Office of Indigenous Policy. Although federal law is the ultimate authority on indigenous reserves, local groups maintained considerable autonomy. The government recognized traditional Kuna marriage rites as the equivalent of a civil ceremony. Laws protect intellectual property rights of indigenous artwork and establish regulations for artisan fairs. Despite legal protection and formal equality, indigenous people generally had higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. The poverty rate among the indigenous population was estimated at between 90 and 98 percent, depending on the group.

With the exception of the Kuna Yala, whose leaders enforced their territorial boundaries and maintained their cultural integrity, indigenous groups had not succeeded in using their autonomy to preserve their culture or develop economic independence.

Because many indigenous persons did not have an adequate command of Spanish, they often misunderstood their rights and failed to employ legal channels when threatened. In addition, the government did not provide legal tribunals in indigenous areas and failed to attend to specific indigenous property and resource use rights problems: the Kuna of *comarca* Madugandi complained of encroachment by settlers who were deforesting the *comarca*. In October residents of the Kuna Yala

reservation discovered 70 acres of their forest had been cut down by loggers. The Ngobe were under threat due to the isolation of their reserves, encroachment by settlers, and generalized poverty. A report by the United Nations Development Fund found that over 45 percent of the population in the Ngobe Bugle reservation was illiterate. The Embera-Wounan struggled to protect their intellectual property in medicinal plants.

Social and employment discrimination against indigenous people was widespread. Employers frequently did not afford indigenous workers basic rights provided under labor laws, such as minimum wage, social security benefits, termination pay, and job security. Indigenous laborers in the country's sugar, coffee, and banana plantations continued to work under worse conditions than their nonindigenous counterparts. Indigenous migrant workers were unlikely to be provided with quality housing or food, and their children were much more likely to perform long hours of heavy farm labor than nonindigenous children (see section 6.d.).

Other Societal Abuses and Discrimination.—A 1920 law prohibiting homosexuality was not enforced. The law prohibits discrimination against persons with HIV/AIDS in employment and education, but discrimination continued to be common due to ignorance of the law and of HIV/AIDS. The government provided treatment for HIV/AIDS in at least 80 percent of cases through the Ministry of Health and Social Security, but the government had problems maintaining retroviral medication in stock. The New Men and Women of Panama, a gay rights group, however, averred that employers discriminated against openly gay people. There were no reported incidents of harassment or other abuse against the approximately 200 persons who participated in a gay pride march on June 24 in Panama City.

Section 6. Worker Rights

a. The Right of Association.—The law recognizes the right of private sector workers to form and join unions of their choice, subject to the union's registration by the government. The law sets the minimum size of private sector unions at 40 workers and permits one union per establishment. Umbrella unions based on skill groups may also operate in the same establishment. The law provides that if the government does not respond to a registration application within 15 days, the union automatically gains recognition with all rights and privileges under the law. Union associations complained that such automatic registration did not function in practice. Employees of small companies may organize under a larger umbrella group of employees with similar skills and form a union as long as they number at least 40. The law also allows labor leaders to keep their union positions if fired from their jobs.

The International Labor Organization (ILO) Committee of Experts 2005 report requested that the government amend national legislation requiring a minimum of 50 public servants to establish a public servants union to reduce the number of public servants required to establish such organizations.

Approximately 13 percent of the total labor force was organized.

In October the government agreed to pay \$800 thousand (800 thousand balboas) to 270 public sector electricity and telecommunications workers whose dismissal the Inter-American Court of Human Rights had found improper in a 2001 ruling.

The government and political parties exercised political, ideological or financial influence over some unions.

b. The Right to Organize and Bargain Collectively.—The law provides all private sector and most public sector workers with the right to organize and bargain collectively, and private worker unions exercised this right widely. The law establishes a conciliation section in the Ministry of Labor to resolve private labor complaints and provides a procedure for mediation.

Public workers had an association consisting of 19 public worker associations, but this association did not strike or negotiate collective bargaining agreements because only approximately 8 percent of government workers were protected from arbitrary dismissal as certified career employees. At year's end the ombudsman's office reported that it had received over 200 complaints of unjustified dismissal from public employees. The law grants some public employees a limited right to strike, except for those in areas vital to public welfare and security such as the police and health workers. At least 25 percent of the workforce must continue to work to provide minimum service in the case of administrative workers, and 50 percent must continue to provide service in the case of workers providing "essential public services," such as transportation, firefighting, telecommunications, and mail. In its 2005 report, the ILO Committee of Experts noted that inclusion of transport workers under the law regarding limitation on strikes in essential services sectors goes beyond essential services in the strict sense of the term.

The law prohibits federations and confederations from calling strikes. In its 2005 report, the ILO Committee of Experts requested that the government take measures to amend this legislation with a view to bringing it into line with the principle that federations and confederations should enjoy the right to strike.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its nine thousand employees, but does allow unions to organize and to bargain collectively on such issues as hours and safety and provides for arbitration to resolve disputes.

Employers in the retail industry commonly hired temporary workers to circumvent labor code requirements for permanent workers. In lower-skilled service jobs, employers often hired employees under 3-month contracts for several years, sometimes sending such employees home for a month and subsequently rehired them. Employers also circumvented the law requiring a 2-week notice for discharges by laying off some workers 1 week before a holiday. In addition, due to labor laws that made it difficult to fire employees who had worked 2 years or more, it was not uncommon to hire workers for one year and 11 months and subsequently lay them off.

Employers, following a 2000 supreme court ruling, increasingly negotiated directly with unorganized workers before unions formed or had a majority presence in the workplace. According to ministry of labor data, between 1990 and 2005, 593 of 916 collective agreements were negotiated directly between employers and workers.

Unions and collective bargaining are permitted in export processing zones (EPZs). In its 2005 report, the ILO Committee of Experts asked the government to confirm whether workers in export processing zones have the right to strike. A strike is considered legal only after 35 workdays of conciliation are exhausted; otherwise, striking workers can be fined or fired. The law regarding EPZs does not mention arbitration or specify procedures to resolve labor disputes in the courts.

The same labor laws governing EPZs applied to call centers. There were approximately 833 EPZ employees and several times more call center employees. Minimum wage provisions applied in the EPZs and call centers, and wages were generally higher in the call centers than in the economy as a whole. In the EPZs, workers could agree to take the law's compulsory Sunday rest period on another day and to overtime compensation based on a straight 25 percent differential, compared to a complex and costlier system under the Labor Code.

The law establishing the special economic area, created in 2004, in the former Howard Air Force Base Area contains provisions intended to facilitate greater labor flexibility along the lines of the minimum wage and required rest day provisions employed in the EPZs. Workers in this special economic area had the right to strike, organize and engage in collective bargaining.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by adults and children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law contains provisions to prevent exploitation of children in the workplace. The Ministry of Labor has responsibility for enforcement. Although the government allocated inadequate staffing and funding, the ministry was reasonably effective in enforcing the law regarding child labor in the formal sector. By August the ministry had performed 272 inspections of businesses to ensure compliance with child labor regulations. Child labor in agriculture and in the informal sector of the economy, however, remained a problem.

The law prohibits the employment of children under 14 years of age, with the exception that children age 12 and over are permitted to perform light farm work for up to 6 hours per day that does not interfere with their school hours. The law prohibits the employment of children under age 15 if the child has not completed primary school. However, child labor was a problem in some provinces and some economic sectors.

Children under age 18 legally cannot work more than 6 hours per day and cannot work at night. The law includes a prohibition on employment of minors under the age of 18 in hazardous labor. The Ministry of Labor enforced these provisions in response to complaints and could order the termination of unauthorized employment. The government acknowledged that it was unable to enforce some child labor provisions in rural areas, and it conducted only limited inspections due to insufficient staff (see section 6.e.).

Child labor violations occurred most frequently in rural areas, especially during the harvest of sugar cane, coffee, bananas, melons, and tomatoes. Farm owners often paid according to the amount harvested, leading many laborers to bring their young children to the fields to help with the work.

The problem of child labor in agricultural areas fell most heavily on indigenous families, who often migrated out of their isolated reserves in search of paid work (see section 5). These frequent migrations interrupted schooling.

Child domestic labor was a problem. According to the 2000 census, more than 6 thousand children between the ages of 10 and 17 worked as domestic servants. Government enforcement of domestic labor violations was traditionally weak because the place of work is a private residence.

Many children continued to work in the informal sector of the economy as street vendors, shoe shiners, cleaning car windows, washing cars, bagging groceries in supermarkets, picking trash, or simply begging for money. A 2005 ILO survey estimated 52 thousand children between the ages of 5 and 17 worked in the informal sector. The government estimated there were 15 thousand children employed or working on their own informally in urban areas of the country. Approximately 45 percent of these children did not attend school. The government, the ILO, and the NGO *Casa Esperanza* funded a campaign of TV commercials and advertising to stop child labor.

Casa Esperanza operated 47 centers throughout the country to reduce child labor, and through its DESTINO project operated 7 schools for children who had left school to work.

e. Acceptable Conditions of Work.—The law establishes minimum wage rates for specific regions and for most categories of labor, excluding public sector workers. The minimum wage ranged from \$0.82 (0.82 balboas) to \$1.56 (1.56 balboas) per hour, depending on the region and sector. This wage did not provide a decent standard of living for a worker and family. Most workers formally employed in urban areas earned the minimum wage or more. Approximately 40 percent of the population, however, worked in the large informal sector and earned far below the minimum wage. This was particularly the case in most rural areas, where unskilled laborers earned from \$3.00 to \$6.00 (3 to 6 balboas) per day without benefits. The government did not enforce labor laws in most rural areas.

The law establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly, limits the number of hours worked per week, provides for premium pay for overtime, and prohibits excessive or compulsory overtime. The Ministry of Labor generally enforced these standards in the formal sector.

The Ministry of Labor is responsible for setting and enforcing health and safety standards and generally did so. The Ministry of Labor conducted 2,223 workplace inspections to verify compliance with labor laws.

Although inspectors from the Ministry of Labor and the occupational health section of the Social Security Administration conducted periodic inspections of hazardous employment sites and responded to complaints, the government failed to enforce adequately health and safety standards. Construction workers and their employers were notoriously lax about conforming to basic safety measures. Workers have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They generally were not allowed to do so if the threat was not immediate, but could request a health and safety inspection to determine the extent and nature of the hazard.

PARAGUAY

Paraguay is a constitutional republic with a population of approximately 6.3 million. The president is the head of government and head of state. In 2003 voters elected Nicanor Duarte Frutos of the Colorado Party as president in generally free and fair elections. The congress consists of a 45-member Senate and an 80-member Chamber of Deputies. The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were serious problems in some areas. The following human rights problems were reported:

- killings by the police and military, which the government investigated
- abuse of convicted prisoners, other detainees, and conscripts
- overcrowding and violence in prisons
- arbitrary arrests and detention, lengthy pretrial detention, corruption and inefficiency in the judiciary, and infringements on citizens' privacy rights
- excessive police force against illegal but peaceful demonstrations

- violence and discrimination against women, trafficking in persons, discrimination against persons with disabilities and indigenous persons, inadequate protections of worker rights, child labor, and child abuse
- illegal military conscription of minors, although at reduced levels

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—While the government or its agents did not commit any politically motivated killings, security forces were responsible for killings involving the use of unwarranted or excessive force. There were reports of police officers killing persons while acting outside the scope of their duties and of deaths in custody.

On July 10, police sub-commissioner Francisco Ramon Rojas Aveiro was detained on charges of ordering the killing of three persons in San Pedro in January. An investigation continued at year's end.

On August 21, authorities arrested a police officer, a cadet in the Military Academy, and two others for killing Lucio Luis Vera on August 11. Reports indicated that Vera was returning home from work when the suspects shot him in the course of an attempted robbery. The case remained pending at year's end.

On several occasions, police used force to disperse illegal protesters, particularly in connection with land invasions and labor protests; these actions resulted in deaths and injuries on both sides (see section 2.b.).

On June 24, the forcible eviction by police of families from property claimed by a Brazilian settler in Tekojoja, Caaguazu Department, resulted in the deaths of Angel Cristaldo and Leopoldo Torres, who were members of the Agrarian and Popular Organization, and injuries to five others. Authorities arrested the settler Ademar Aloisio Opperman and several of his employees for their role in the killings. There were 25 suspects in the case, 3 of whom were in prison, and the case remained pending at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances. Political figures Juan Arrom and Anuncio Marti, members of the Patria Libre Party (PPL), accused of kidnapping Maria Edith Bordon de Debernardi in 2001, remained in Brazil, where authorities granted them political asylum in 2003. In June the lead prosecutor in this case stated that the same gang involved in the Debernardi kidnapping was also responsible for the February killing of Cecilia Cubas, daughter of former President Raul Cubas, who had been kidnapped in September 2004. On October 13, after the attorney general filed formal charges, a judge indicted 15 suspects in the case. Several of the defendants had ties to a militant faction of the PPL.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, there were reports that some government officials continued to employ them. The Paraguay Human Rights Coordinating Board (CODEHUPY)—a group of 32 nongovernmental organizations (NGOs), civic organizations, and trade unions—reported several cases of police torture and other abusive treatment of persons, including women and children, designed to extract confessions, punish escape attempts, or intimidate detainees.

Marcial Martinez Amarilla, a member of the Popular Rural *Campesino* Organization, stated that, on March 31, police in Valle Pe, Guaira Department, entered his home, forcibly apprehended him without a warrant for his arrest, and tortured him for three hours on suspicion of cattle theft. The case remained under investigation at year's end.

On December 29, police detained Juan Carlos Silvero Medina in San Juan Nepomuceno, Caazapa Department, where he was held for more than 10 hours for allegedly disturbing the peace and severely beaten.

There were no developments in the case of Ramon Benitez Irala, who claimed in July 2004 that he was shot when policemen raided his home and was refused treatment for eight days.

There were several reports of members of the military harassing, beating, and killing civilians, particularly while responding to land invasions (see section 2.b.).

The law allows the human rights ombudsman to investigate and seek monetary compensation in cases of human rights abuses stemming from the 1954–89 Stroessner regime. Since his appointment in 2001, the ombudsman has ruled that 805 of 1,728 victims who filed petitions were entitled to compensation and awards ranging from \$583 to \$17,500 (3.5 to 105 million guaranies). More than 400 victims (and/or family members) either already received payments or were due to receive payments, according to the ombudsman. Since 1993, 3,583 human rights cases have

been filed, predominantly stemming from the Stroessner era. Although the Truth and Justice Commission continued to investigate and document human rights abuses between 1954 and October 2004, a tight budget constrained its progress.

On June 15, government officials, NGOs, and the UN Children's Fund (UNICEF) released a report documenting accusations of torture and ill-treatment of conscripts in the cities of Altos, Cordillera Department; Ciudad del Este, Alto Parana Department; and Mariscal Estigarribia, Boqueron Department. On August 25, armed forces commander, General Jose Kanazawa, apologized for past mistreatment committed by military personnel under his command.

Prison and Detention Center Conditions.—Prison facilities were deficient, and prison conditions were extremely poor. Overcrowding, unsanitary living conditions, and mistreatment were the most serious problems affecting all prisoners. According to the Paraguay Human Rights Coordinating Board (CODEHUPY), Tacumbu prison, the largest in Asuncion, was built to hold approximately 800 inmates but held nearly 3 thousand for most of the year. A majority of those held were awaiting trial. Regional prisons generally held approximately three times more inmates than their original capacity. Additional prison facilities were under construction, for example, in Caaguazu.

A makeshift maximum security facility not designed as a prison or officially designated as a prison, held dangerous offenders or those considered high escape risks in solitary confinement.

Security was a problem throughout the prison system. For example, there were approximately 130 guards for nearly 3 thousand prisoners at Tacumbu prison. Inmates frequently had weapons, particularly at the Emboscada prison in Minas. Escapes and escape attempts were frequent, while corruption among prison guards and judicial officials remained a problem.

On April 10, the director of the Tacumbu prison Artemio Vera announced that some of his guards were accomplices, along with the prisoners, in criminal activities inside the prison. He called for changes in the prison system. On July 11, the prison's new director, Arnildo Caballero, announced the hiring of a private security firm to support the guards in such efforts as reducing the influx of weapons; there were no subsequent reports of guards associated with criminal activity.

Men and women prisoners generally were held separately. While some smaller institutions held prisoners of both sexes, it was government policy to hold them in separate wings, but this was not always done in practice. A Senate Human Rights Committee investigation of abuse and conditions at the prisons found that prisons generally were in "deplorable" conditions. Many prisons were overcrowded, lacked sufficient infrastructure to accommodate the inmates, needed additional security guards, required maintenance, and raised serious health concerns.

Although juvenile prisoners generally were held separately from adults, adults and juvenile prisoners continued to be held together in smaller prisons outside the capital.

The government permitted independent monitoring of prison conditions by human rights organizations. Amnesty International and diplomatic representatives were granted access to prisons for announced and unannounced visits.

d. Arbitrary Arrest or Detention.—The law prohibits detention without an arrest warrant signed by a judge and stipulates that any person arrested must appear before a judge within 24 hours to make a statement; however, arbitrary arrest and detention were problems. The police may arrest without a warrant persons apprehended in the act of committing a crime, but they must notify a prosecutor. In practice the authorities did not always comply with these provisions.

Role of the Police and Security Apparatus.—The National Police, under the authority of the minister of interior, have responsibility for law enforcement and internal security. The police were inadequately funded, poorly trained, and generally corrupt. The government took steps to control and punish human rights violations committed by police officers; however, the police enjoyed impunity for many of their actions. There were reports that police were involved in narcotics trafficking and provided support to the more notorious kidnapping rings. On September 2, the national police commander opened an investigation against one of his deputies for forging identification documents for a known leader of a kidnapping ring. In October the Senate rejected the promotion of corrupt police official Aristides Cabral who was connected to narcotraffickers. Nonetheless, in November Cabral was appointed chief of police for the department of President Hayes, which serves as a corridor for illegal flights moving drugs and contraband across the country.

The overall crime rate continued to fall; police made arrests in a number of high-profile cases, such as kidnappings; and the 911 system for reporting emergencies to police continued to generate positive results. Additionally, the National

Antinarcotics Secretariat's hot line led to arrests of several of their most wanted persons.

Arrest and Detention.—The law provides that, after making an arrest, police have up to 6 hours to notify the prosecutor's office, at which point the prosecutor's office has up to 24 hours to notify a judge whether it would prosecute the case.

The law provides a person in detention with the right to a prompt judicial determination of the legality of the detention, and authorities appeared to respect this right and to inform detainees promptly of the charges against them. The average time from arrest to trial was approximately 240 days. The law permits detention without trial until the accused completes the minimum sentence for the alleged crime, which often occurred in practice. The law allows judges to utilize "substitute measures," such as house arrest, in place of bail for most crimes; however, judges frequently set relatively high bail, and many accused persons were unable to post bond.

The law grants accused criminals the right to counsel, but the government lacked resources to provide counsel to poor defendants, and many went to trial without representation. The government permitted defendants to hire attorneys at their own expense. Inmates were allowed regular visits from family members, including conjugal visits.

There were no reports of political detainees.

Pretrial detainees constituted approximately 75 percent of the prison population. Supreme court justices and staff and many criminal court judges made periodic visits to the prisons to identify and release improperly detained individuals.

e. Denial of Fair Public Trial.—While the law provides for an independent judiciary, courts remained inefficient and subject to corruption and political influence. Politicians and other interested parties blocked or delayed investigations and often pressured judges, although the judiciary was not allied with any political group.

The nine-member Supreme Court appoints lower court judges and magistrates, based upon recommendations by the magistrate's council. There are five types of appellate tribunals: civil and commercial, criminal, labor, administrative, and juvenile. Minor courts and justices of the peace come within four functional areas: civil and commercial, criminal, labor, and juvenile. The military has its own judicial system, which is subordinate to the civilian justice system.

Trial Procedures.—All trials are open to the public. The law stipulates that all defendants have the right to an attorney, at public expense if necessary; however, this right often was not respected in practice. Many destitute suspects received little legal assistance, and few had access to an attorney sufficiently in advance of the trial to prepare a defense. The 148 public defenders in the country, including 44 in Asuncion, lacked the resources to perform their jobs adequately.

The law requires prosecutors to bring charges against accused persons within 180 days. Defendants enjoy a presumption of innocence, and defendants and the prosecutor may present the written testimony of witnesses as well as other evidence. The judge alone determines guilt or innocence and decides punishment. A convicted defendant may appeal the sentence to an appeals court, and the Supreme Court has jurisdiction over constitutional questions.

Political Prisoners.—There were no reports of political prisoners.

Property Restitution.—In August the government expropriated 130 thousand acres of land in Puerto Casado owned by Reverend Sun Myung Moon's Unification Church for distribution to local farmers. The government held that the land was not being productively used. The law requires compensation to the owners, but funding had not been identified by year's end.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits police entry into private homes except to prevent a crime in progress or when the police possess a judicial warrant. While the government and its security forces generally did not interfere in the private lives of citizens, human rights activists credibly claimed that local officials and police officers abused their authority by entering homes or businesses without warrants and harassing private citizens. There were credible allegations that some government offices occasionally spied on individuals and monitored communications for partisan or personal reasons.

Marcial Martinez Amarilla, a member of the Popular Rural *Campeño* Organization, stated that, on March 31, police in Valle Pe, Guaira Department, entered his home and forcibly apprehended him without a warrant for his arrest (see section 1.c.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The print and electronic media were independently owned; some media outlets were tied closely to political parties or business entities. Many media outlets clearly reflected personal business or political interests, and ethical and professional standards were low. The media commonly criticized the government and freely discussed opposition viewpoints.

On August 26, police acting on an order of the National Commission for Telecommunications raided and closed Radio Nemity FM, a community-based radio station in Capiibary, on the grounds that the station had no license. Police also confiscated the station's equipment. The station, which was awaiting an answer to its request for registration, had been closed before due to on-air comments made about local politicians. Many other stations in the country operated without a license.

Application of libel law was irregular. Judges were biased toward plaintiffs and frequently ruled in their favor regardless of the merits of a case. Other political figures used police or private security officers to threaten or intimidate journalists. On December 28, the Supreme Court affirmed a lower court finding that *ABC Color*, a leading publication, had defamed Senator Juan Carlos Galaverna of the ruling Colorado Party; the charges stemmed from articles *ABC Color* published in 1997 and 1998.

On November 30, Ciudad del Este prosecutor Delio Gonzalez Sanchez denied four reporters access to the scene while he raided the Time Import Company to investigate the alleged circulation of counterfeit dollars. Authorities detained the reporters in a stairway behind a locked gate for more than an hour.

On several occasions, politicians and prosecutors publicly threatened journalists who revealed embarrassing information about them, typically related to corruption. In May agriculture minister Antonio Ibanez threatened journalist Erwing Rommel Gomez after he wrote several stories about Ibanez's alleged corrupt practices. Shortly thereafter, Ibanez resigned his position.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice. In some cases, police violently dispersed illegal but nonviolent assemblies.

The law restricts demonstrations in Asuncion to certain times and places and specifically prohibits meetings or demonstrations in front of the presidential palace and outside military or police barracks. The law also requires that organizers notify the Asuncion police 24 hours before any rally downtown. In addition, the law prohibits public gatherings in the congressional plaza in Asuncion, the traditional focal point for many demonstrations, during daylight hours on workdays. The police may ban a demonstration but must provide written notification of the ban within 12 hours of receipt of the organizers' request. The law permits a police ban only if another party already has given notice of plans for a similar rally at the same place and time. This law does not apply to religious processions. The law prohibits closing roads as a form of protest, but demonstrators did so on many occasions during the year.

Although the president in November invoked the government's right to "act to preserve public order" in connection with a month-long demonstration in front of the Palace of Justice, by year's end, the government had not acted to disperse hundreds of the demonstrators.

Several *campesino* organizations held demonstrations during the year. Although members blocked several national highways, and *campesinos* invaded and occupied numerous rural properties, calling on the government to expropriate farmland for redistribution, rural unrest was significantly less than in 2004.

Freedom of Association.—The constitution provides for the right of citizens to free association, and the government generally respected this right in practice.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice. The government required all religious groups to register with the Ministry of Education and Culture but imposed no controls on these groups, and many unregistered churches existed.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts. There were approximately 350 Jewish families in the country.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Authorities frequently prohibited those accused of crimes from leaving the country and, on occasion, barred those convicted of crimes from

traveling abroad after completing their sentences. The law expressly prohibits exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The law mandates general elections every five years with voting by secret ballot.

Elections and Political Participation.—In the April 2003 multiparty general elections, Nicanor Duarte Frutos of the Colorado Party won the presidency. Observers from the Organization of American States characterized the elections as generally free and fair. There were no reports of systematic nationwide irregularities, although the NGO Transparency Paraguay cited irregularities at several polling stations.

There are no legal impediments to women's participation in government and politics. There were 14 women in congress (6 of 45 senators and 8 of 80 national deputies), 1 woman on the Supreme Court, 1 woman elected as a departmental governor, 3 women heading cabinet ministries, and 6 additional women holding ministerial rank and heading secretariats. The Electoral Code requires that 20 percent of each party's candidates in their internal primaries for elective office be women.

Although there were no legal impediments to minority groups' participation in government and politics, there were no indigenous members of the legislature. An estimated 50 percent of the approximately 40 thousand indigenous persons eligible to vote did so in the 2003 general elections, but members of some indigenous communities reported that they were threatened and prohibited from fully exercising their political rights, and indigenous people continued to hold rallies protesting limits on their political and human rights.

Government Corruption and Transparency.—There was a widespread public perception of corruption in government. The NGO Transparency International reported that corruption remained a "severe" problem in the country, although the perception index improved slightly from the preceding year. The government maintained working relationships with civil society organizations to promote transparency in the public sector.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative; however, their response to the views and recommendations of the human rights groups was mixed.

Local NGO human rights groups included the Committee of Churches (an interdenominational group that monitored human rights, investigated refugee claims, and provided legal assistance), Grupo Luna Nueva (a group dedicated to the protection of children's rights), and Peace and Justice Service or SERPAJ (a group that defended conscientious objectors and provided legal assistance to those with grievances arising from military service). CODEHUPY's annual report highlighted abuses of police authority and mistreatment of military recruits.

In October Ombudsman Paez Monges was re-appointed for a third 2-year term as the country's human rights advocate.

The director general of human rights, located in the Ministry of Justice and Labor, chaired the National Commission on Human Rights. The commission sponsored seminars to promote human rights awareness. The director general's office has access to the congressional, executive, and judicial authorities. It does not have subpoena or prosecutorial power, but the commission may forward information concerning human rights abuses to the attorney general for action. It served as a clearing house for information on human rights and trained thousands of educators in human rights law.

The Foreign Ministry's Human Rights Office organized an inter-ministerial roundtable on human rights that met periodically throughout the year. It served as a

forum for human rights officials from various ministries to coordinate their efforts and focused principally on combating trafficking in persons.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

While the law prohibits discrimination based on race, gender, disability, language, or social status, certain groups, such as indigenous persons, faced significant discrimination in practice.

Women.—The most pervasive violations of women's rights involved sexual and domestic abuse. Spousal abuse was common. Although the law criminalizes spousal abuse, it stipulates that the abuse must be habitual before being recognized as criminal and then is punishable by a fine. Thousands of women were treated for injuries sustained in violent domestic altercations. Despite an apparent trend toward increased reporting of complaints, such complaints were often withdrawn soon after filing due to spousal reconciliation or family pressure, including from the attacker who is often the spouse. In addition, the courts allow mediation of some family violence cases, although not provided for in the law. The Secretariat of Women's Affairs' Office of Care and Orientation receives reports on violence against women and coordinates responses with the National Police, primary health care units, the attorney general's office, and NGOs. In practice these services were available only in Asuncion. The secretariat also conducted training courses for the police, health care workers, prosecutors, and others.

The NGO Women's November 25th Collective operated a reception center where female victims of violence received legal, psychological, and educational assistance. The NGO Kuna Aty also offered services to abused women. There were no shelters for battered and abused women outside of Asuncion.

The law criminalizes rape, including spousal rape, and provides penalties of up to six years in prison. According to the Office of the Attorney General, rape was a significant problem. During the year, there were more than 300 cases of rape in Asuncion and many more in the other departments. The government generally prosecuted rape allegations and often obtained convictions; however, many rapes went unreported because victims feared their attackers or were concerned that the law did not adequately respect their privacy.

The law prohibits the sexual exploitation of women, but the authorities did not enforce the prohibition effectively. Prostitution is legal for persons over the age of 18, and exploitation of women, particularly underage prostitutes, remained a serious problem.

The law prohibits but does not criminalize sexual harassment, and it remained a problem for many women in the workplace. While there are no penalties specifically for harassment, related violations of the law are punishable by fines and up to three months' imprisonment. Claims of abuse may be filed with the courts and the Ministry of Justice and Labor, but harassment was difficult to prove, and most complaints were settled privately.

Although women generally enjoyed the same legal status and rights as men, gender-related job discrimination was widespread and widely tolerated. Women often were paid significantly less than men for the same work. The Secretariat of Women's Affairs occasionally sponsored programs intended to give women equal access to employment, social security, housing, ownership of land, and business opportunities.

Children.—The law protects certain children's rights and stipulates that parents and the state should care for, feed, educate, and support children.

Public schooling was provided through the age of 17, and education was compulsory until the age of 14. According to UNICEF, in 2004 the enrollment rate for children between the ages of 6 and 14 was 89 percent and 50 percent for those between the ages of 15 and 17. The law entitles boys and girls to equal educational access; at all ages, enrollment among girls was slightly greater than enrollment among boys. Rates of enrollment in urban areas were slightly higher than rates of enrollment in rural areas. Approximately 59 percent of indigenous children between the ages of 6 and 14 were enrolled in school. The national literacy rate was 92 percent.

According to UNICEF, 48 percent of children age 14 or younger lived in poverty (20 percent in extreme poverty), and 11 percent of those suffered from chronic malnutrition, with both figures trending upward. Boys and girls generally had equal access to medical care.

Abuse and neglect of children was a serious problem. A local NGO attributed a rise in the number of complaints of mistreatment of children to the increased awareness of child abuse and neglect. The government has a National Plan to Prevent and Eradicate the Exploitation of Children. The Secretariat of Children and Adolescents is responsible for this 5-year program, for identifying and providing assistance to abused and neglected children, and for educating the public to prevent abuse.

Sexual exploitation of children also was a problem. UNICEF reported that two-thirds of sex industry workers were minors, the majority of whom began working between the ages of 12 and 13. In addition, UNICEF reported there were more than 40 thousand *criadas* (domestic servants) between the ages of 6 and 12, who were often sexually exploited as well. In November the government's Municipal Advisory Council on the Rights of Children and Adolescents reported that 35 percent of street children in Ciudad del Este had been victims of sexual exploitation, in many cases with the full knowledge of their parents.

During the year the government's Child and Adolescent Secretariat registered more than 28 thousand children, not previously included in the Civil Registry; the secretariat estimated that more than 600 thousand children remained to be unregistered. The Secretariat also participated in or organized programs related to combating trafficking in persons, abuse of children, and child labor issues, such as children who are domestic servants.

There were reports of trafficking in girls for the purpose of sexual exploitation (see section 5, Trafficking).

On June 15, government officials, NGOs, and UNICEF released a report regarding the conscription of minors. The report found isolated incidents of continued forced or deceitful recruitment in the city of Salto del Guaira, Canindeyu Department, and documented accusations of torture and ill-treatment of conscripts in the cities of Altos, Cordillera Department; Ciudad del Este, Alto Parana Department; and Mariscal Estigarribia, Boqueron Department (see section 1.c.). The report also noted the recruitment of indigenous youths who were exempt from obligatory military service.

The government established review procedures for military conscripts to prevent enlistment of minors and to investigate and report on abuses and conditions. The government requires that all military officers responsible for recruiting ensure that all conscripts meet the legal minimum age of 18. The armed forces has a human rights office responsible for helping NGOs investigate the alleged use of forged documents and illegal recruiting practices.

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—Although the law prohibits trafficking in persons, there were reports that persons were trafficked from and within the country for sexual purposes.

The law punishes trafficking in persons with up to 10 years in prison; the law also forbids compelling anyone to travel outside the country or to enter the country for the purpose of prostitution or compelling a minor under 18 to work as a prostitute. At year's end, there were more than 20 transnational cases under investigation, 4 of which had been transferred to judicial proceedings. Ten persons were in prison, four convicted of trafficking and associated crimes and six charged with these crimes.

The secretariats of women's affairs and of children and adolescents were responsible for combating trafficking, and the Secretariat for Repatriations had a mandate to assist women who were trafficked abroad; however, the secretariats' small budgets limited their effectiveness.

On July 1, authorities extradited Paraguayan national Carolina Maidana Duarte from Spain for her involvement in the trafficking of Lurde Resquin to Spain. In December 2004, Maidana's brother Raul Antonio Maidana Duarte and Mario Ramon Gonzalez Caceres were convicted for their involvement in the trafficking of the same woman. In April the convictions were overturned on the grounds that the defendants should be tried in Spain where the trafficked woman suffered the ultimate effects of the crime. On November 21, the Supreme Court's Penal Court reversed the lower court decision and reinstated the original convictions, stating that the crime started in the country at the moment of deception by the defendants.

The country was a source for trafficked persons, and trafficking also took place within the country. Anecdotal evidence suggested that several hundred women and children were trafficked abroad annually. There were no estimates available on the extent of trafficking within the country. Most victims came from the rural interior of the country, particularly the departments of Alto Parana, Canindeyu, Caaguazu, and Itapua, which border Argentina and Brazil and where international organized crime groups have a heavy presence. The borders are very porous and there were few border officials. Within the country, victims were trafficked primarily to the two largest cities, Asuncion and Ciudad del Este; the most significant foreign destinations were Argentina and Spain; smaller numbers of victims went to Brazil. Trafficking victims within the country worked in the sex industry. Underage girls reportedly also were forced to work as *criadas*, both domestically and in neighboring countries. According to the Secretariat for Children and Adolescents, many of these children were sexually abused. Government and NGO studies showed that most of

the girls trafficked were working as street vendors when traffickers targeted them and that 70 percent of victims had drug addictions. The local NGO Grupo Luna Nueva and the International Organization for Migration reported that trafficking of women and children increased by 27 percent in the past 5 years.

The trafficking of women and children for sexual exploitation was a high-profit, low-risk activity for traffickers who moved easily across the borders with Argentina and Brazil. The traffickers took advantage of the poor who lived in the border departments, promising women, and in many cases young girls, jobs in the retail industry. In some cases, the parents were fully aware that their daughters planned to work in other cities or countries but were unaware of the conditions and actual job.

On several occasions, Argentine police rescued Paraguayan women from Buenos Aires brothels, where they had been forced to work as prostitutes. On June 27, Argentine authorities detained two men in Buenos Aires for their involvement in holding 27 women and 5 young girls (one of whom was pregnant) in various locations for prostitution. On July 11, the country's ambassador to Argentina stated that 33 women and 10 girls had been rescued from brothels in Argentina. In both instances, the victims later were repatriated.

The government's primary focus in protecting victims was the repatriation of its own citizens. Provision for the physical and mental health of those repatriated, as well as for their transportation home, was limited. The lack of resources also prevented periodic follow-up after repatriation.

Efforts to prevent trafficking included interministerial roundtables organized by the Ministry of Foreign Affairs to discuss trafficking in persons. In July and August, the government, with foreign government support, organized and conducted a study to assess conditions and make recommendations for immigration and border controls that would assist in combating the problem of trafficking in persons. A national communications campaign, organized by the Secretariat of Women's Affairs with foreign government support, seeks to prevent women and girls from becoming victims of trafficking.

The Itaipu Binational Authority, a public utility company jointly owned by the country and Argentina, supported the NGO Children's and Adolescents' Care and Assistance Center, which operated a hot line and shelter for trafficking victims in Ciudad del Este.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. Nonetheless, many persons with disabilities faced significant discrimination in employment; others were unable to seek employment because of a lack of accessible public transportation. The law does not mandate accessibility for persons with disabilities, and most of the country's buildings, public and private, were inaccessible.

The Ministry of Health noted that half of all children with disabilities did not attend school because public buses could not accommodate them. Many bus drivers reportedly refused boarding to persons with disabilities or required them to be accompanied.

Conditions for the 460 residents at the Neuropsychiatric Hospital in Asuncion were substandard, and some patients reportedly were kept unclothed in cells and not treated for their mental illnesses. The hospital lacked running water, electricity, or even roofs, and the hospital was severely understaffed. The patients were not fed adequately; parasitic and skin infections were widespread and rarely treated. Children were housed with adults and were subjected to sexual assaults. There was no information available on a response by the Inter-American Commission on Human Rights to a 2002 petition that it intervene to protect the 460 residents of the facility from sexual abuse and to end their long-term isolation. On March 8, the NGOs Mental Disability Rights International and Center for Justice in International Law signed an agreement with the government to support reforms at that institution, but there were no reports of steps taken to implement the agreement by year's end.

Indigenous People.—The law provides indigenous people with the right to participate in the economic, social, political, and cultural life of the country; however, the indigenous population (officially estimated at more than 90 thousand) was unassimilated and neglected. Low wages, long work hours, infrequent payment (or nonpayment) of wages, job insecurity, lack of access to social security benefits, and racial discrimination were common. Weak organization and lack of financial resources limited access by indigenous persons to the political and economic system. The law also protects the property interests of indigenous people, but these rights were not fully codified. The law allows public ministry officials to represent indigenous people in matters involving the protection of life and property.

Lack of access to sufficient land hindered the ability of indigenous groups to progress economically and maintain their cultural identity. In addition, there was insufficient police and judicial protection from persons encroaching on indigenous lands. Many indigenous people found it difficult to travel to the capital to solicit land titles or process the required documentation for land ownership.

Other significant problems facing the indigenous population included lack of shelter and medical care, economic displacement resulting from other groups' development and modernization, and malnutrition. Scarce resources and limited government attention slowed progress in dealing with these problems.

In February the Inter-American Commission of Human Rights stated that the government had violated six articles of the American Convention on Human Rights by displacing indigenous populations from their ancestral lands and denying them the right to land, education, health, and judicial protection.

Section 6. Worker Rights

a. The Right of Association.—The law allows both private and public sector workers (with the exception of the armed forces and the police) to form and join unions without government interference and workers exercised this right in practice. The law contains provisions that protect fundamental worker rights, including an anti-discrimination clause, provisions for employment tenure, severance pay for unjustified firings, collective bargaining, and the right to strike. Approximately 121 thousand (15 percent) of workers were organized in approximately 1,600 unions.

All unions must be registered with the Ministry of Justice and Labor. Although the official registration process was cumbersome and could take more than a year, the Ministry of Justice and Labor issued provisional registrations within weeks of application. Employers who opposed the formation of a union can delay union recognition by filing a writ, but almost all unions requesting recognition eventually received it.

The law prohibits antiunion discrimination, but it was not always enforced. Harassment of some union organizers and leaders in the private sector continued. Fired union leaders may seek redress in the courts, but the labor tribunals were slow to respond to complaints. A number of cases involving union leaders fired as many as nine years ago remained pending in the courts. Although the courts typically favored employees in disputes, backlogs in the judicial system delayed cases for several years. As a result, most employees could not afford the time and expense of seeking judicial redress. The courts were not required to order the reinstatement of workers fired for union activities. In some cases, when judges ordered the reinstatement of discharged workers, employers continued to disregard the court order with impunity. The failure of employers to meet salary payments also frequently precipitated labor disputes.

There were also complaints that management created parallel or "factory" unions to compete with independently formed unions. In several cases workers allegedly chose not to protest due to fear of reprisal or anticipation of government inaction.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining, and this provision generally was respected in practice. According to the Ministry of Justice and Labor, there were approximately 30 collective bargaining agreements in place, covering approximately 10 percent of private sector employees and 60 percent of public sector employees; however, the agreements typically did little more than reaffirm minimum standards established by law. When wages were not set in free negotiations between unions and employers, they were made a condition of individual offers of employment.

Although the law provides for the right to strike, bans binding arbitration, and prohibits retribution against strikers and leaders carrying out routine union business, employers often took action against strikers and union leaders. Voluntary arbitration decisions are enforceable by the courts, but this mechanism rarely was employed. Senior Ministry of Justice and Labor officials were available to mediate disputes.

There were numerous strikes by members of all three worker centrals and smaller unions. Many of the strikes were related to the firing of union officials, management violations of a collective contract, management efforts to prevent the free association of workers, or demands for benefits such as payment of the minimum wage or contribution to the social security system. Others were directed at broader economic issues.

There are no export processing zones. Factories that assemble imported parts for re-export (*maquiladoras*), operated in the eastern part of the country. The Mercosur trade association accepted the country's *maquiladoras* into its automotive regime. The country's labor laws apply to *maquila* operators.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. Authorities enforced compulsory military service for all males, unless exempted as conscientious objectors) occurred, as there were reports of conscripts forced to work as construction workers for military officers in their privately owned businesses.

d. Prohibition of Child Labor and Minimum Age for Employment.—The director general for the protection of minors in the Ministry of Justice and Labor is responsible for enforcing child labor laws. In practice the government did not enforce minimum working age regulations, and child labor was a problem that contributed to the legal and illegal economy of the country.

Minors between 15 and 18 years of age may work only with parental authorization and may not be employed in dangerous or unhealthy conditions. Children between 14 and 15 years of age may work only in family enterprises, agriculture, or apprenticeships. Although the labor code prohibits work by children under age 14, in August the press reported government research documenting that approximately 40 percent of the children in primary grades worked in street vending jobs during school hours in Ciudad del Este.

The 2001 census reported that 5 percent of the workforce was under the age of 14. According to the NGO Organization for the Eradication of Child Labor (COETI), 265 thousand children, or 13.6 percent of those between the ages of 5 and 17, worked outside their homes, many in unsafe conditions. In supermarkets, boys as young as age 7 bagged and carried groceries to customers' cars for tips. Thousands of children in urban areas, many of them younger than 12 years of age, were engaged in informal employment, such as selling newspapers and sundries and cleaning car windows. Many of the children who worked on the streets suffered from malnutrition and disease and lacked access to education. Some employers of the estimated 11,500 young girls working as *criadas* denied them access to education and mistreated them. According to the Secretariat for Children and Adolescents, many of these children were also sexually abused. An official in the Center for Adoptions was arrested for employing a 9-year-old *criada*, who was living in deplorable conditions and not permitted to attend school. The official was detained, and the case remained pending at year's end. In rural areas, children as young as 10 years of age often worked beside their parents in the fields; according to COETI, 88 percent of rural children in the labor force worked at home or with family members. Local human rights groups did not regard families harvesting crops together as an abuse of child labor. UNICEF reported that 25 percent of children between the ages of 10 and 17 worked, of whom 47 percent worked on family farms, 22 percent in construction, 13 percent work in the street, and 11 percent operated machinery or were artisans. The children worked approximately five hours per day.

While the government took some steps in implementing its 2003 plan to eliminate child labor, including the worst forms of child labor, resource constraints limited progress.

e. Acceptable Conditions of Work.—The Ministry of Justice and Labor established a national private sector minimum wage sufficient to maintain a minimally adequate standard of living for a worker and family. There was no public sector minimum wage. In practice most (but not all) government agencies adjusted the hours of work for government workers to be paid at a rate comparable to the private sector minimum wage. The minimum salary is adjusted whenever annual inflation exceeds 10 percent, and was approximately \$180 (1.08 million guaranías) per month. However, the Ministry of Justice and Labor did not enforce the minimum wage and estimated that 50 percent of government workers earned less than the minimum wage, while 48 percent of private sector workers earned less. The law requires that domestic workers be paid at least 40 percent of the minimum wage and allows them to work up to a 12-hour day.

The law allows for a standard legal workweek of 48 hours (42 hours for night work), with one day of rest. The law also provides for an annual bonus of one month's salary and a minimum of six vacation days a year. The law requires overtime payment for hours in excess of the standard. However, many employers violated these provisions. There are no prohibitions on excessive compulsory overtime. Workers in the transport sector routinely staged strikes to demand that their employers comply with the law's provisions on working hours, overtime, and minimum wage payments.

The law also stipulates conditions of safety, hygiene, and comfort. The government did not allocate sufficient resources to enable the Ministry of Justice and Labor and the Ministry of Health to enforce these provisions effectively.

Workers have the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, but they may not

do so until the Ministries of Justice and Labor and Health recognized such conditions formally. Although there are laws intended to protect workers who file complaints about such conditions, many employers reportedly took disciplinary action against them.

PERU

Peru is a multiparty republic with a population of approximately 28 million. In 2001 Alejandro Toledo of the Peru Possible party won the presidency in elections that generally were free and fair. The civilian authorities generally maintained effective control of the security forces

Although the government generally respected the human rights of its citizens, there were serious problems in a number of areas. The following human rights problems were reported:

- beatings, abuse, and torture of detainees and inmates by police and prison security forces
- harassment of witnesses by security forces
- impunity of military and security forces
- poor prison conditions
- prolonged pretrial detention and inordinate delays of trials
- pressure on the media by local authorities and other groups, including coca growers and a notorious narcotrafficker
- violence and discrimination against women
- violence against children, including sexual abuse
- trafficking in persons
- discrimination against indigenous people and minorities
- significant obstacles to persons with disabilities
- restrictions on collective bargaining rights
- child labor in the informal sector

The terrorist organization Shining Path (*Sendero Luminoso*) was responsible for killings and other abuses.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings, although there was one report of an unlawful killing by police from 2004, which came to public attention during the year. Unlike in previous years, no military recruits died under suspicious circumstances during the year, compared with two such cases in 2004.

In January the Human Rights Commission (COMISEDH) accepted the case of three police officers who allegedly beat Ricardo Huaranga Felix to death when they arrested him in November 2004. Family members of the deceased stated they had received threats from unknown persons urging them to drop the case against the police. On November 22, unknown persons abducted and beat a key witness in the case and left him in a remote area of Lima. COMISEDH filed a complaint with the prosecutor of Lima's Northern Cone. At year's end the case continued in the National Criminal Court, and two of the three accused officers remained in prison.

In August a court found three members of the security forces guilty of the 2002 murder of Jose Reina Rincon and sentenced each of them to 25 years' imprisonment.

There were no new developments in the criminal case against four police officers accused of the 2003 torture and killing, while in custody, of Edgar Lopez Sancarranco.

In May the Cuzco prosecutor brought charges of 16 years' imprisonment and a fine of \$15 thousand (51,600 soles) against 7 police officers involved in the 2003 death in custody of Julio Alcazar Dolmos.

In April the fourth supraprovincial prosecutor of Lima dropped, for lack of evidence, charges against police officers involved in the 2002 death in custody of Gerardo Adrianzen Otarola.

In April the Supreme Court of Justice upheld the ruling of a lower court in Chincha that had sentenced four agents of the National Penitentiary System to five years in prison for the 2001 killing of inmate Esteban Minan Castro.

At year's end there were no new developments and none were expected in the 2003 case of the killing of Edy Quilca Cruz and the injury of 30 other persons fired upon by soldiers during a protest in Puno.

In February authorities filed homicide charges in the criminal court in Huanta against two military officers in the June 2004 case of Peter Vasquez Chavez, a 23-year-old military recruit who had been found dead at the Cangari-Huanta Military Base in Ayacucho. Although the military stated that Vasquez Chavez died as a result of an attack by the Shining Path, local residents stated that no such attack took place. The case continued at year's end.

In December 2004 the court of Puquio in Ayacucho ordered investigations into the October 2004 case of Army Corporal Edgar Ledesma Lopez, who was found dead in his military barracks. Four military officers remained under investigation at year's end.

There were no further developments and none were expected in the 2003 deaths of recruits Leonel Sanchez Rivero and Freddy Campos Avendano.

Investigations continued in the 2003 deaths of Army recruit Corporal Magno Ariza Paitan and Corporal John Lenon Olortegui.

Following an August retrial, prosecutors elected not to file charges in the 2000 killing of Air Force recruit Jose Luis Poma Payano.

The government continued to arrest members of the *Grupo Colina* death squad. Since 2001 authorities have arrested 13 members of the group. At year's end the trials, which included the cases of Barrios Altos and La Cantuta, were all in the oral proceedings phase.

The case involving charges of extrajudicial killing in the 1997 rescue of 74 hostages at the Japanese ambassador's residence continued to progress through the judicial system. As of mid-year former Intelligence Service Director Vladimiro Montesinos, former Armed Services Chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio remained in custody, and the Supreme Court of Justice continued to consider which of the anticorruption courts should handle the proceedings.

In August the prosecutor's office dropped its case against former president Alan Garcia and members of his cabinet for their roles in the 1986 *El Fronton* prison massacre. COMISEDH appealed this decision, and the First Supraprovincial Court investigated possible charges against authorities allegedly responsible for the loss of life at El Fronton.

In August 2004 the Supreme Court of Justice ruled that the case involving a 1980 massacre where soldiers allegedly tortured and killed eight peasants in Chuschi, be tried by civilian courts, since it dealt with human rights violations. At year's end the case was being handled by the National Criminal Court, which scheduled oral proceedings to begin in February 2006.

The terrorist group Shining Path continued to kill civilians as well as military and police officials. There were 60 reported terrorist incidents during the year, the most serious of which occurred in Junin, Huanuco, San Martin, and Ayacucho. During the year members of Shining Path killed 17 policemen, 5 civilians, and 1 judge. For example in July, members of Shining Path killed four civilians, one policeman, and one judge in two separate incidents in Satipo Province and Tocache Province.

b. Disappearance.—There were no reports of politically motivated disappearances. There were no new developments in the case against Peruvian National Police (PNP) Commander Juan Carlos Mejia Leon and several PNP officers charged with the 2003 kidnapping of Ernesto Rafael Castillo Paez, a student detained by the PNP for being a suspected terrorist in 1990 who subsequently disappeared.

There were no new developments in the trial of 11 policemen for the 2003 disappearance of Andy Williams Garces.

In September oral proceedings began against four members of the security forces charged with the 1990 kidnapping and disappearance of Ernesto Rafael Castillo Paez.

The Shining Path committed kidnappings. In November a group of heavily armed Shining Path members kidnapped 10 employees of a foreign development contractor in Huanuco Department. The abductors later released the employees but threatened to kill them if they returned to the area.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, there continued to be reports of torture of detainees, excessive use of force against protesters, and abuse of military recruits. The authorities seldom held responsible those who allegedly committed abuses.

Torture often occurred immediately following arrest, when families were prohibited from visiting suspects held incommunicado, and when attorneys had limited access (see section 1.d.).

In some cases police and security forces threatened or harassed victims, their relatives, and witnesses to keep them from filing charges of human rights violations. According to COMISEDH, some victims were reluctant to pursue judicial proceedings against their abusers, fearing that the abusers would be released without being charged. COMISEDH reported 14 cases of aggravated torture by security forces from January to September, compared with 22 cases in total during 2004. Human rights observers noted that the torture cases normally were not the result of orders from central authorities, but rather represented brutal practices that originated during the campaign against terrorism in the 1980s and 1990s.

On February 21, police beat Juan Zemudio Bocangel until he was unconscious after Zemudio broke a police car window. In July the third supraprovincial prosecutor of Lima charged two police officers, Cesar Augusto Chavez Aguilar and Jose Ben, with aggravated torture.

On April 9, police in La Victoria, Lima, beat Wilmer Cubas Carranza until he was unconscious after Cubas attempted to intervene on behalf of a detained friend. COMISEDH was investigating the case at year's end.

The January 2004 case of John Robert Osorio Morales, who was detained and beaten by police, was transferred in July to the third supraprovincial prosecutor of Lima for further investigation.

During the year COMISEDH examined the July 2004 case of Army soldier Misael Meendoza Carrion, who allegedly was beaten by a superior officer for refusing an order. Mendoza is slowly losing his hearing as a result of the abuse. The 11th provincial prosecutor of Lima's Northern Cone continued to investigate the case at year's end.

In September the National Penal Court, formerly the National Terrorism Court, accepted the August 2004 case of Pablo Fabio Sanchez Conde, who was allegedly tortured by police officers after being detained along with his brother, Miguel. COMISEDH charged that the two also suffered threats from the same police officers accused of abusing them.

A COMISEDH investigation continued in the November 2004 case of Simeon Gonzalez Illescas, a street vendor who was allegedly beaten by several municipal watchmen of Lima's La Victoria section for refusing to pay a local tax.

There were no significant developments in the investigation of the following cases from 2003 involving prison guards: the beating of Wilber Escobedo; the alleged torture of an inmate at Challapalca prison; and the alleged torture of Miguel Angel Vela del Aguila.

The 2003 case involving six members of community self-defense groups allegedly tortured by police remained in the instruction phase, and the six were released under their own recognizance.

In November the judge in the 2002 case of alleged police torture of Renzo Vega Hidalgo dismissed the case. COMISEDH appealed the decision and the case remained in process at year's end.

In May the prosecutor issued formal charges of torture against police for the 2002 beating of Jair Martin Rodriguez and his brother. At COMISEDH's urging, the case was remanded to the National Penal Court in July where oral proceedings had begun by year's end.

In February the presiding judge found six prison guards accused of beating inmate Alfonso Valle Oquendo in 2002 guilty. The defendants appealed the decision, and the case continued at year's end.

Nongovernmental organizations (NGOs) and the human rights ombudsman continued to monitor the treatment of army recruits. Unlike in previous years, there were no reports that officers beat, abused, or killed lower-ranking soldiers (see section 1.a.).

In February the Supreme Court of Justice reviewed the 2002 case of Raul Ochoa Ravello, who allegedly assaulted a soldier, Noe Moises Canales Salazar. The court changed the charges against Ochoa from torture to infliction of injury that lead to death. The Supreme Court of Justice sent the case back to its original court in Piura for additional deliberations.

Citizens at times took the law into their own hands, meting out severe physical punishment to persons suspected of committing offenses such as robbery, burglary, rape, and child molestation. According to police statistics, during 2004 there were almost 2 thousand such incidents, resulting in 19 deaths. The majority occurred in the countryside, although Lima registered an increase (to 695) of cases where mobs seized and punished suspected thieves. Local experts explained that lack of police presence and lack of faith in the justice system had led to outbreaks of violence against suspected criminals. Persons seized were beaten, tied to lampposts, and sometimes sprayed with gasoline and set afire.

Prison and Detention Center Conditions.—Prison conditions varied greatly. For prisoners without funds, conditions were poor to extremely harsh in all facilities. Prisoners with funds had access to a range of amenities. For example, they could dine in restaurants within the prisons or could receive meals sent from the outside. Overcrowding, lack of sanitation, and poor nutrition and health care were serious problems. Inadequate training of security forces and lack of control within the prison system also were serious problems. Inmates in all prisons had intermittent access to running water; bathing facilities were inadequate; kitchen facilities remained generally unhygienic; and prisoners slept in hallways and common areas due to lack of cell space. Illegal drugs were abundant in many prisons, and tuberculosis and HIV/AIDS were reportedly at near-epidemic levels. For regular inmates, prison authorities budgeted approximately \$1 (3.14 soles) per prisoner per day for food. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 7 thousand prisoners lived in a facility built to accommodate 1,500.

The International Committee of the Red Cross (ICRC) reported a shortage of trained medical personnel, unreliable and insufficient legal representation for prisoners, an insufficient number of social workers and psychologists, and a general lack of organization in prison administration.

Conditions were particularly harsh in maximum-security facilities located at high altitudes. During the year the government responded to criticisms from human rights monitors, including Amnesty International, and permanently closed the Challapalca Prison in Tarata, Tacna.

Prison guards and fellow inmates routinely victimized and abused prisoners. Corruption was a serious problem among poorly paid prison guards. Some guards, for example, cooperated with criminal bosses inside prisons, who oversaw the smuggling of guns and drugs into the facilities.

Lax controls over inmates and overcrowding contributed to a severe prison riot at the San Juan de Lurigancho Prison on February 8, which resulted in 5 inmate deaths and 25 injuries. Prison experts warned that anarchy in Lurigancho could not be solved without reforms to the clogged and corrupt judicial system. Press investigations following the riots indicated that prison conditions permitted some incarcerated criminals to use jail time to plan and benefit from crimes committed by accomplices outside the prison system.

Detainees were held temporarily in pretrial detention centers located at police stations, judiciary buildings, and, in large cities, at the public ministry.

Pretrial detainees were held together with convicted prisoners in most cases.

The government permitted prison visits by independent human rights observers, including the ICRC. The ICRC made 167 unannounced visits to inmates in 65 different prisons, detention centers, and juvenile detention facilities.

d. Arbitrary Arrest or Detention.—The constitution, criminal code, and antiterrorist statutes prohibit arbitrary arrest and detention, although the organic law of the PNP permits police to detain a person for any investigative purpose. The law requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. Only judges may authorize detentions, including in corruption cases. Authorities are required to arraign arrested persons within 24 hours. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, this must be accomplished as soon as practicable.

Role of the Police and Security Apparatus.—The PNP, with a force of 90,385, was responsible for all areas of law enforcement in the country and functioned under the authority of the Minister of the Interior. The PNP's personnel structure follows that of the military, with an officer corps and enlisted personnel. The organizational structure is a mixture of directorates that specialize in specific areas (such as kidnapping, counternarcotics, and terrorism) and local police units. Each department, province, city, and town has a PNP presence.

Experts noted that the PNP was undermanned, had problems with professionalism, was often ineffective against common criminal activity, and unable at times to meet its mandated responsibilities, such as witness protection. Corruption and impunity were problems.

The interior ministry and the PNP attempted to address these weaknesses. The Green Squad police unit continued to be effective in raiding clandestine brothels that were often engaged in trafficking in persons and other crimes (see section 5). During the year the PNP shifted more police officers from administrative duties to police stations and to units responsible for patrolling the streets.

Arrest and Detention.—The law requires police to file a report with the public ministry within 24 hours whenever a suspect is arrested while committing a crimi-

nal act. The public ministry, in turn, must issue its own assessment of legality of police actions in the arrest.

Persons are apprehended openly with a warrant issued by a judicial authority. The law also provides the right to prompt judicial determination. An average of 20 hours elapsed between the time that a person was detained and the person's appearance before a judge. Judges have two hours to decide whether to release or continue to detain the suspect. There was a functioning bail system; however, economic limitations prevented many defendants from posting the required payments. Criminal detainees are allowed prompt access to a lawyer and to family members. The justice ministry provided indigent persons with access to attorneys' advice at no cost.

Persons detained for espionage, drug trafficking, corruption, and terrorism may be held for up to 15 days. Police may detain terror experts for incommunicado for the first 10 days. The public ministry oversees the detention centers, whose conditions also are monitored by the ombudsman's office.

In practice authorities did not enforce the foregoing legal norms. Persons detained in remote areas sometimes were held for longer periods due to difficulties in getting access to counsel and formulating charges. Some remote, rural police stations also lacked basic facilities. Oversight of pretrial detention centers generally was more effective in the cities than in rural areas.

There were no reports of political detainees.

Lengthy detention before trial and sentencing continued to be a problem. According to a study prepared by the Technical Secretary of the Special Commission for Integral Reform of the Justice System (CERIAJUS), of 29,581 persons held in prison, 31 percent had been sentenced, while 69 percent were cases still being tried. If prisoners are held more than 18 months (or 36 months in more complex cases) without being sentenced, they are released.

During the year the Lima Superior Court implemented various measures to streamline case-handling and accelerate trial processing, including improvements in case management and a requirement that case files be sent to the prosecutor on a daily basis for evaluation in regard to pretrial detention.

During the year the executive branch established a commission to create an implementation plan for the new criminal procedures code, which was approved in July 2004 to create an accusatory system for criminal cases. The commission's plan called for the gradual implementation of the new code over a 5-year period, beginning in 2006.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The three-tier court structure consists of lower and superior courts, and a Supreme Court of Justice of 30 judges. A constitutional tribunal of seven members operates independently of the judicial branch. The independent National Judicial Council (CNM) appointed, disciplined, and evaluated all judges and prosecutors who have served in their position for seven years or more. Failure to be certified by the CNM disqualified a judge or prosecutor from working in that capacity again.

In May the government presented a report recognizing that the CNM's procedures violated the due process criteria of the Inter-American Commission of Human Rights (IACHR). Consequently, the government agreed to the following remedial measures: an indemnity of \$5 thousand (17,200 soles), the establishment of a new evaluation procedure that would take place within five months of settlement of the dispute, and the reincorporation of formerly disqualified justices into their former positions or those of a similar level.

Judicial reform remained a government priority, but implementation was irregular. During the year some of CERIAJUS' recommendations were put into practice. Congress approved 13 of 52 legal proposals put forward by CERIAJUS, among these a proposal to create a special commission dedicated to following up on the proposed reforms. The judiciary created the first seven judgeships for a special commercial court and continued to post an estimated nine thousand Supreme Court of Justice decisions on its Web site. Superior court justices and their administrators also received special training in public administration.

In addition the CNM approved new regulations (including suggestions from civil society) for the selection of judges and prosecutors.

Witness protection remained a significant weakness of the justice system. The National Coordinator for Human Rights, an umbrella Human Rights NGO, documented 45 cases of attacks on witnesses during the year. In February a witness in the case of accused narcotics trafficker Fernando Zevallos was attacked, and on June 1, for the third time in 15 months, unknown assailants attempted to kill Luis Alberto Ramirez, the key witness in the trial of General Luiz Perez.

Trial Procedures.—The justice system is based on the Napoleonic Code. The prosecutor investigates cases and submits an opinion to a first instance judge, who determines whether there is sufficient evidence to open legal proceedings. A judge conducts an investigation, determines facts, guilt or innocence, and issues a sentence. All defendants enjoy a presumption of innocence, have the right to be present at their trial, have the right to counsel, and may call witnesses. The public defender system often failed to provide indigent defendants with qualified attorneys. Defendants may appeal to the superior court and then to the Supreme Court of Justice.

Under the military justice system, judges in the lower courts may sentence and must pass judgment within 10 days of a trial's opening. Defendants could then appeal their convictions to the Superior Military Council, which had 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within five days. At the Superior Military Council and Supreme Council levels, a significant number of judges were active-duty officers with little or no professional legal training.

In August 2004 the Constitutional Tribunal ruled that the military-political commands created to maintain order during states of national emergency were unconstitutional. At year's end the revisions necessary to bring the Code of Military Justice into line with these decisions were being worked on by a commission set up by the executive that included representatives of the ministries of justice and interior, the judiciary, and the public ministry, and three judges.

During the year in accordance with the decisions of both the IACHR and the Constitutional Tribunal, the Special Terrorism Court continued to re-try defendants previously convicted by military tribunals. The National Penal Court handed down 250 sentences. Another 307 cases remained to be decided. The National Penal Court convicted 65 percent of those accused. It absolved 600 persons as a result of sentences completed, time off granted for cooperation, or lack of substance to the charges against them. At the end of 2004, there were 1,400 persons in prison sentenced for having committed acts of terrorism. The trial of Shining Path leader Abimael Guzman in civilian court was ongoing at year's end.

During the year the Constitutional Tribunal handed down two sentences with important human rights implications. In the first, the tribunal reiterated the principle that civilian courts rather than military ones should handle human rights cases. In the second, it found that disappearances constituted a "permanent crime" and therefore were not subject to a statute of limitations.

During the year the National Penal Court reopened cases involving violations concerning various massacres and abuses attributed to security forces during the war against the Shining Path in the 1980s and 1990s, including such cases as Accomarca, Cayara, Chuschi, the deaths in Los Cabitos, and the deaths of various students in Huancayo. The courts also processed 50 cases involving accusations of torture.

In June and July, the Accomarca and Cayara cases attracted particular attention when the judges ordered the arrest of 147 military figures in the 2 cases. Despite the order, the PNP did not detain many of them, which the press interpreted as reluctance of the PNP to confront the military. PNP sources explained that the arrests were in progress and that military authorities were responsible for detaining active duty military officers. The judges continued to work with the military, but the situation remained unresolved at year's end.

As a follow-up to the recommendations put forward by the Truth and Reconciliation Commission (TRC), the NGO Institute for Legal Defense, in cooperation with the Special Terrorism Court and the Superior Courts of Lambayeque, Ayacucho, and Junin, continued efforts to reduce the large case backlog involving those officially sought for acts of terrorism.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice; however, there were reports that the authorities did not always obtain warrants before entering private dwellings.

Unlike in previous years, COMISEDH received no reports of forced military recruitment.

The Shining Path continued to coerce indigenous persons to join its ranks (see section 5).

Section 2. Respect for Civil Liberties, including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet; however, there were multiple reports of press harassment by provincial authorities or by private groups or

organizations such as protesting coca growers (*cocaleros*). Harassment took the form of attacks on journalists, illegal arrests, or threats of judicial action.

The independent media were active and expressed a wide variety of views. All were privately owned except for one government-owned daily newspaper, two government-owned television networks, and one government-owned radio station.

On February 15, the government published the regulations for the Radio and Television Law, which congress had approved in July 2004. On July 8, the government named the members of the transportation and communications ministry's Advisory Council, which will regulate the implementation of the law.

Journalists and media outlets reportedly suffered intimidation during the year. The National Journalists Association reported 115 cases of harassment (mainly in the provinces). The Press and Society Institute issued 59 alerts. Both statistics were slightly lower than figures from 2004 (121 and 69, respectively). The majority of these incidents took the form of violent attacks, threats, judicial pressure, illegal arrests, and robbery of broadcasting equipment and journalists' files. Many cases resulted from the general lack of effective state presence in many parts of the country, a factor that rendered journalists vulnerable to attacks from a variety of sources.

On March 2, Mayor Leopoldo Inga and other local officials of the Alto Amazonas Province in Loreto attacked and threatened Jose Antonio Simons, the director of Yurimaguas' *El Huinsho* magazine. The officials seized a videotape he had made of a meeting between officials and a provincial public prosecutor.

On April 12, police officer Joel Bardales beat Cesar Hildebrandt Jr., a reporter with Lima's Channel 2 television program *La Ventana Indiscreta*, for investigating alleged illegal enrichment by his sister, Lady Bardales. During the attack, Hildebrandt's video camera and several documents in his possession were stolen.

On April 15, Miguel Angel Carpio, a reporter with the Tocache's television program *El Informe* and for the radio station Marginal, was forced to leave Tocache because a *cocalero* association threatened to kill him for allegedly selling a video to the government. The video showed *cocalero* leader Nancy Obregon admitting that an important portion of coca production was sold to drug traffickers. Carpio denied the sale of the video.

On May 2, Congressman Victor Valdez beat Rufino Zambrano, a reporter with Pucallpa daily *Ahora*. Valdez had sued Zambrano for allegedly falsely reporting about the congressman's activities.

On May 4, Lima judge Alfredo Catacora ruled that US reporter Jane Holligan and British reporter Sally Bowen had defamed narcotics trafficker Fernando Zevallos. Holligan and Bowen had collaborated on a book, *The Imperfect Spy*, in which they cited sources that named Zevallos as a drug trafficker. On June 27, a Lima Criminal Superior Court voided Catacora's sentence because of procedural irregularities. The case was sent to a new judge, and a final ruling was pending at year's end.

On July 17, Cecilia Valenzuela, director of the television program *La Ventana Indiscreta*, broadcast a phone threat received on July 9, in which a woman demanded that Valenzuela stop investigating the national police and the interior minister.

Congressman Jorge Mufarech's January 2004 one million dollar (3.44 million soles) lawsuit against *Correo* journalist Pedro Salinas for alleged defamation continued. In November 2004 a court acquitted Salinas. During the year Mufarech appealed the decision, and the case continued at year's end.

On June 19, Dina Ramirez of Yungay charged that she had received death threats. Ramirez's husband, journalist Antonio de la Torre, was killed in February 2004 by David Moises Julca, who allegedly was acting at the behest of his fiance's father, local mayor Amaro Leon. On December 14, authorities sentenced Leon and his driver, Pedro Angeles, to 17 years' imprisonment. Police continued their search for Julca at year's end.

On August 3, a Pucallpa prosecutor accused four men of involvement in the killing of Pucallpa *Frecuencia Oriental* radio announcer Alberto Rivera. Unknown persons killed Rivera in April 2004, a day after he had described alleged links between Coronel Portillo provincial Mayor Luis Valdez and drug traffickers. Samuel Gonzales Pinedo, one of those detained by authorities, offered testimony in mid-September that implicated Mayor Valdez and others in the mayor's circle. The Pucallpa court continued its investigation at year's end.

On June 16, a Lima judge acquitted publisher of Lima daily *El Comercio*, Alejandro Miro Quesada Garland, and three of his staff in a \$100 million (346 million soles) defamation suit filed by narcotics trafficker Fernando Zevallos in May 2004.

On January 17, the judiciary ratified the arrest order of journalist Alvaro Vargas Llosa, who had been sued for defamation by Adam Pollack in 2001.

On July 5, an arbitration board ruled that the government must pay Baruch Ivcher, owner of Channel 2, \$6.2 million (21.3 million soles) for damages he had suffered when the Fujimori administration seized his television station in 1997.

On January 26, the judiciary sentenced several former directors of the pro-Fujimori dailies to five years in prison for selling their editorial support to the Fujimori administration. Those sentenced were Moises and Alex Wolfenson, Jose Olaya, Alejandro Estenos, Fernando Oliveri, Pablo Documet, and Jorge Rivera. Other press figures received lesser sentences or avoided punishment because they remained outside the country. The government pursued the extradition of several of these figures, including Eduardo Calmell del Solar, Jose Enrique and Jose Francisco Crousillat, and Ernesto Schutz.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Although the law does not require a permit for a public demonstration, organizers must inform the Ministry of Interior's political authority (prefect) about the type of demonstration and its location. Demonstrations may be prohibited for reasons of public safety or health. The police used tear gas and occasional force to disperse protesters in various demonstrations.

Although most demonstrations were peaceful, protests in some areas turned violent and blocked essential thoroughfares.

On January 1, a pro-*cocalero* group, the Ethno-Caceristas, seized a police station in rural Andahuaylas, killing four police officers. After several days, authorities took back the station and captured Ethno-Cacerista leader Antauro Humala, who remained in jail along with several of his followers awaiting trial at year's end. In May an agricultural strike affected commerce in 10 regions as farmers compelled the government to buy surplus crops, mostly corn and potatoes, at prices over market value.

Mining activities were frequently the target of protesters who turned violent. On May 24 anti-mining protesters in Espinar seized part of the Tintaya Mine's facilities. The protesters vandalized the mine's offices before vacating the premises, causing mine operations to be suspended for one week.

The ombudsman's office issued monthly reports noting the prevalence of rural unrest regarding a variety of issues, including mining operations, border disputes, as well as strike actions and road blockages by farmers seeking higher prices for their crops.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. The Catholic Church and Catholic clergy received extra benefits from the government in education, taxation of personal income and institutional property, and remuneration. By law the military may hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion of military personnel. These factors continued to raise concerns about unequal treatment of non-Catholics military personnel.

Churches may register voluntarily with the Office of Ecclesiastical Affairs in the Ministry of Justice to receive tax benefits and exemption from import duties on religious materials.

The Ministry of Education requires Catholic religion courses in all public and private primary schools, although parents may request an exemption by writing to the school principal.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts, during the year.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Although the law provides for these rights of free movement, authorities legally may restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Police may check travelers at control points throughout the country.

The Shining Path occasionally interrupted the free movement of persons by setting up roadblocks in sections of the Upper Huallaga, Apurimac, and Ene River valleys. Protesting farmers on occasion also blocked roads in an attempt to pressure the government to purchase surplus crops.

The law prohibits forced internal and external exile, and the government did not use it.

While the law prohibits the revocation of citizenship, naturalized citizens may lose their citizenship for, among other reasons, committing crimes against the state, national defense, and public security, as well as for reasons that “affect the public interest and the national interest.”

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared prosecution. The government granted refugee status or asylum. The government cooperated with the UN High Commissioner for Refugees in granting refugee status and recognized the Catholic Migration Commission (CMC) as the official provider of technical assistance to refugees. The CMC also advised citizens who feared persecution and sought asylum abroad. The government provided protection to political refugees on a renewable, year-to-year basis. During the year the CMC rejected refugee requests from 23 persons.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides for the right of citizens to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of mandatory voting and universal suffrage. Members of the armed forces and the police may now vote.

Elections and Political Participation.—In 2001 Alejandro Toledo assumed the presidency in elections that generally were considered free and fair. The two principal parties represented in the 120-member Congress were Peru Posible (33 seats) and the Popular American Revolutionary Alliance (28 seats).

Registration of a new political party requires the signature of 1 percent of the voters who participated in the past election. The presidential term is five years, and the law prohibits the immediate reelection of a president. Groups that advocate the violent overthrow of the government are barred from participating in the political process.

There were 22 women in the 120-member congress and 4 female regional presidents. Approximately 3 percent of the mayors and 25 percent of the city council officers elected at the local level were women. There were 2 women in the cabinet; the attorney general was a woman; and there was 1 woman on the Supreme Court of Justice. The Law on Political Parties mandates that at least 30 percent of the candidate lists for electoral offices at all levels be women.

It was rare for indigenous persons, who make up more than 33 percent of the population, to hold high public office. Congress had one self-declared indigenous member. Three congressmen represented the black minority, estimated to be 3 to 5 percent of the population, but there were no blacks in the cabinet.

Government Corruption and Transparency.—Corruption remained a major problem, which the government took steps to address.

In December 2004 President Toledo appointed a new ad hoc anticorruption prosecutor, Antonio Maldonado. During the year Maldonado reorganized the ad hoc prosecutor's office and created a computerized database to improve tracking corruption cases from the Fujimori-Montesinos era as well as more recent cases.

Despite these advances, the pace of anticorruption prosecutions remained a concern. Following more than 3 years of investigations, the anticorruption courts concluded 20 of 205 cases. Authorities accused 1,492 persons of corruption, detained 87, and placed another 87 under house arrest. Approximately 62 percent of the cases remained in the instructions or investigations stage. Human rights activists and civil society actors noted that the law permits 36 months of detention without sentencing, opening the possibility that some of those accused could be freed unless their cases were handled promptly.

On July 9, newspaper publishers Moises and Alex Wolfenson, on trial for press and media corruption during the Fujimori era, were released as the result of a Supreme Court of Justice decision that applied a new law equating house arrest with prison sentencing in calculating the amount of time served. Two weeks after their release, the Constitutional Tribunal found the new law unconstitutional, and the Wolfensons returned to detention. Congress subsequently revoked the law.

The law provides for public access to government information, and most ministries and central offices provided key information on their web pages. However, implementation of the law was incomplete, particularly in rural areas. In addition there was a widespread lack of awareness of the law, and relatively few citizens understood and exercised their right to information. Through a yearly report, the ombuds-

man encouraged regional governments to adopt transparency-promoting practices. The ombudsman also oversees regional governments' compliance with a legal requirement that compels them to hold public hearings at least twice a year on their activities.

On July 10, the Peruvian Press Council (CPP) requested that the president review a new intelligence law that the CPP asserted contradicted the Law of Transparency and Access to Public Information. The CPP stated that the intelligence law defined national security in ambiguous terms and mandated excessive prison terms for the publication of confidential government information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Numerous domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

According to COMISEDH, military commanders continued to deny access to military facilities to human rights observers. To obtain information about activities in those areas, NGOs had to work through the ombudsman's office.

The government continued to implement recommendations in the 2003 TRC report, which noted that approximately 69 thousand persons died during the armed conflict of 1980–2000. During the year authorities issued formal charges in a number of cases brought by the government, involving some 300 military and former military figures. The government also asked the NGO Center for the Promotion and Development of Populations (CPDP), headed by TRC member and Shining Path expert Carlos Tapia, to design a plan for reparations. Most of CPDP's recommendations involved collective reparations for the zones affected by the violence. Some former TRC members and many human rights NGOs lobbied for the creation of a victim registry and some form of individual reparations. The government had not implemented any recommendations at year's end.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

While the law prohibits discrimination based on race, gender, disability, language, or social status, discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted. There was progress in a number of areas.

Women.—Violence against women and girls, including rape, spousal abuse, and sexual, physical, and mental abuse was a chronic problem. Abuses were aggravated by insensitivity on the part of law enforcement and judicial authorities toward female victims.

The law prohibits domestic violence, and penalties range from 1 month to 6 years in prison. The law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home; authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence; and allows any health professional to certify injuries. The law requires police investigation of domestic violence to take place within five days and obliges authorities to extend protection to women and children who are victims of domestic violence.

Ministry of Women and Social Development (MIMDES) centers reported 25,863 cases of domestic violence during the year. The centers attended an average of 2,500 men and women per month. MIMDES also operated a toll free hot line, which handled 8,892 requests for assistance regarding family disturbances.

Women's organizations noted that alcohol abuse and traditional attitudes toward women aggravated the problems of rape and sexual abuse, particularly in rural areas.

MIMDES and NGOs stated that many domestic abuse cases never were reported. NGO sources contended that the majority of reported cases did not result in formal charges due to fear of retaliation from the accused spouse or because of the cost involved in pursuing a complaint. In addition legal and physical protection was limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

MIMDES ran the Women's Emergency Program, which focused on the legal, psychological, and medical problems facing women and children who were victims of domestic violence. MIMDES operated 39 centers, which brought together representatives of various government institutions, including police, prosecutors, counselors, and public welfare agents, charged with helping victims of domestic violence.

MIMDES continued efforts to sensitize government employees and the citizenry to domestic violence. Nonetheless the national ombudsman's office continued to com-

plain that officers reacted indifferently to charges of domestic violence, despite legal requirements that all police stations receive such complaints.

The law criminalizes rape, including spousal rape, and the government enforced the law effectively. The law also provides penalties for those who derive financial benefits from trafficking in persons, Internet child pornography, and sexual tourism involving children. Penalties for pimps and clients of underage prostitutes range from four to eight years in prison.

Prostitution is legal for women over 18 years of age if they register with municipal authorities and carry a sanitary certification. In practice the vast majority of prostitutes worked in the informal sector where they lacked health protection. NGOs reported that traffickers lured increasing numbers of underage women into prostitution (see section 5, Trafficking).

Sexual harassment was a problem. The law defines sexual harassment as a labor rights violation subject to administrative punishment. Punishments differ depending on the professional situation where the violation takes place, such as in education or the private sector, domestic service, the armed forces, and the police.

The law provides for equality between men and women and prohibits discrimination against women relative to marriage, divorce, and property rights. Racial and sexual discrimination in employment advertisements or announcements of educational opportunities were prohibited, although they continued to occur in practice. The law prohibits the arbitrary dismissal of pregnant women.

Traditional assumptions and misconceptions often impeded access to leadership roles for women in both the public and private sectors. Women primarily from the upper and upper-middle classes advanced in recent years into leadership roles in various companies and government agencies, where, by law, they are to receive equal pay for equal work. Due to societal prejudice and discrimination, women historically suffered disproportionately from the country's pervasive poverty and unemployment.

Women's rights groups, such as Flora Tristan and Manuela Ramos, studied discrimination against women and suggested ways to address this problem, which often involved education and efforts to change traditional attitudes.

Children.—The government was committed to children's rights and welfare.

Education was free and compulsory through secondary school and generally was available throughout the country, although there was a shortage of qualified teachers, primarily in jungle regions. Fees for uniforms and books often were prohibitive for poor families. Largely because of widespread poverty, approximately one-third of all school-age children and adolescents worked during daytime hours rather than attending school. Children living in poverty averaged 7.8 years of education, compared with 9.4 years for children living above the poverty line. Based on 2001 population data from the National Institute of Statistics and Information (INEI), 92 percent of children ages 6 to 11 attended school, as did 66 percent of adolescents between 12 and 17 years of age. School nonattendance was highest in rural and jungle areas.

The Ministry of Education operated night schools for working adolescents and continued a tutorial program in the daytime schools, whereby teachers provided extra help to working students. During the year the ministry also initiated a program to teach children their rights, so they would be better able to defend themselves from exploitation.

The latest INEI reports for 2004 indicated a decline in the rate of extreme poverty from 33 percent in 2002 to 26 percent in 2004. The government's integral health security program offered poor mothers and infants as well as school-age children access to health care. The program includes children not attending school. Boys and girls had equal access to health services under this system.

Violence against children and the sexual abuse of children were serious problems. Based on information from its women's emergency centers, MIMDES reported that during 2004 there were 769 cases of violence or sexual abuse of children 5 years of age and under; 1,879 cases for children ages 6 to 11; and 2,721 cases for children ages 12 to 17.

NGOs noted that many abuse cases never were reported to the authorities, since many persons believed that such problems belonged within the family and should be resolved privately. The Women's Emergency Program worked to address the problems facing children who were victims of violence.

The Children's Bureau of MIMDES coordinated child- and adolescent-related government policies and programs. At the grassroots level, 1,312 Children's Rights and Welfare Protection Offices received and resolved complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operated approximately 46 percent of these offices, while schools, churches, and NGOs ran the remaining 54 percent. Law students staffed most of the units; only the offices in the wealthiest districts of the

country had professionally trained lawyers, psychologists, and social workers. When these offices could not resolve cases, officials typically referred them to the local prosecutors' offices of the public ministry. Settlements adjudicated by these offices legally were binding and had the same force as judgments entered by a court of law.

Trafficking of children was a problem (see section 5, Trafficking).

Child labor was a serious problem (see section 6.d.).

Trafficking in Persons.—Trafficking statutes prohibit trafficking in persons and provide penalties for those who move a person, either within the country or to an area outside the country, for the purposes of sexual exploitation (including prostitution, sexual slavery, or pornography) from 5 to 10 years' imprisonment. If the trafficking victim is under 18 years of age, the punishment is 10 to 15 years' imprisonment. Laws prohibiting kidnapping, sexual abuse of minors, and illegal employment were enforced and also could be used to punish those who trafficked persons.

During the year the women's ministry took the lead in combating trafficking in persons.

MIMDES brought together local police, judges, NGOs, and others into a Campaign against Child Sexual Exploitation (CCSE) in Iquitos. In April MIMDES sponsored a seminar that approved an intervention model for police operations against trafficking and CCSE.

MIMDES also organized a publicity campaign with the tourism ministry (MINCETUR) to promote awareness in Iquitos. MINCETUR provided domestic airlines with an in-flight video and distributed flyers at airports warning tourists that sex tourism can result in lengthy prison sentences.

From August to November, the International Labor Organization (ILO) co-sponsored a CCSE training program for police in six cities (Lima, Iquitos, Cusco, Tarapoto, Chiclayo, Tacna). NGO representatives noted that the PNP had incorporated the course into the police academy's official curriculum.

The Multi-Sectoral Committee, a collaboration between government ministries and domestic and international NGOs, took a number of actions against traffickers. PNP officers repeatedly raided clandestine brothels, resulting in the rescue of a number of young women who were returned to their families. At year's end one international trafficker remained under arrest and awaited trial. Authorities detained other domestic traffickers in raids and then released them pending investigation.

On December 29, authorities sentenced Congressman Torres Ccalla to eight years in prison on charges of rape for his relationship with an underage woman. Torres Ccalla had brought the young girl to Lima from his home district of Puno, allegedly to work in his office.

Maria Yataco, allegedly linked to a ring of persons who trafficked women to Japan, remained in custody, and authorities levied additional charges against her.

There were no significant developments in the case of Liliana Mendoza, a trafficking victim rescued from a brothel in Trujillo by PNP and NGO representatives in 2003.

Although there were no authoritative estimates on the extent of trafficking, there were reports that persons were trafficked from and within the country.

Trafficking to Spain and, particularly, to Japan operated through organized criminal networks.

Internal trafficking was a far greater problem. NGOs and international organizations maintained that significant domestic trafficking occurred, particularly to bring underage women from the Amazon district or the sierras into the cities or into mining areas to work as prostitutes or to work in homes as domestics. This trafficking took place through informal networks that could involve boyfriends and even the families of the young women victims.

The government coordinated its antitrafficking activities with NGOs. A Catholic order of nuns, the Sisters of Adoration, operated 3 programs for underage female prostitutes, a live-in center for approximately 75 girls (and 20 children of the victims) in Callao and 2 other walk-in centers in Lima. All facilities offered medical attention, job training, and self-esteem workshops in an attempt to remove underage girls from the streets. The government's Institute for Adolescents and Children provided the Adoring Sisters with the live-in facility and paid for utilities and food.

The International Migration Organization operated a hot line within the Ministry of Interior to receive information on incidents of trafficking in persons as well as promoted information campaigns and training of government officials in trafficking issues.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities and provides for "protection, care, rehabilitation, and security." The law also mandates that public spaces be barrier-free and buildings be architecturally ac-

cessible and provides for the appointment of a disability rights specialist in the human rights ombudsman's office.

Despite an increased focus on persons with disabilities, the government devoted few resources to efforts in this area. Many persons with disabilities remained economically and socially marginalized.

Although the law prohibits discrimination in the workplace, it does not specify sources of funding for programs to enable workers with disabilities to be productive. As a result, persons with disabilities and the private agencies serving them generally relied on public charity and on funding from international organizations.

Although construction regulations mandate barrier-free access for persons with disabilities to public service buildings, little effort was made to implement this provision. There were no accommodations, such as interpreters for the deaf in government service offices and Braille or recordings for the blind. On May 25, the government published a law that required public organizations and universities to make their Web pages usable by blind persons employing software that would read aloud web page content. The law established a period of 120 days for these institutions to implement the necessary changes or face a \$2 thousand fine (6,440 soles). Observers worried that the law, while well-intentioned, might not be enforced.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe disabilities actually worked. Some private companies operated programs to hire and train persons with disabilities, and a private foundation provided small loans to persons with disabilities to start businesses. Nevertheless, such persons faced discrimination by potential employers.

National/Racial/Ethnic Minorities.—The law provides all citizens equality before the law and forbids discrimination, including for reasons of race, origin, and language. The law criminalizes racial discrimination. The country's population included several racial minorities, the largest of which were persons of Asian and African descent. Blacks tended to be concentrated along the coast, often faced discrimination and social prejudice, and were among the poorest groups in the country. Black civil rights groups contended that official surveys and censuses did not accurately reflect their numbers.

Blacks generally did not hold leadership positions in government, business, or the military. Both the navy and the air force were believed widely to follow unstated policies that minimized the number of blacks in the officer corps. Although the law prohibits newspaper employment advertisements from specifying the race of the candidates sought, NGOs alleged that employers often found discreet ways to refuse jobs to blacks or to relegate them to low-paying service positions. Employers frequently required job applicants to submit personal photos to ensure that they had the correct "presence" for desired jobs. While the law prohibits various forms of discrimination by retail establishments against prospective customers, the law did not deter discriminatory practices. Blacks often were portrayed unflatteringly by the entertainment industry as individuals of questionable character or as comedic stereotypes.

During the year civil society elements and the government cooperated to limit discrimination based on color. The Lima-based human rights coordinator formed an antiracism working group composed of several human rights NGOs. The group carried out demonstrations, published articles and, in March, highlighted companies that used racist and socially excluding images in advertising.

On August 26, a special consumer rights court fined a Lima-based upscale disco for practicing racial discrimination against consumers by denying access to the facility to some citizens based on their appearance. The ruling required follow-up investigations to assure that the disco did not resume discriminatory practices.

Indigenous People.—Although the law prohibits discrimination based on race and provides for the right of all citizens to speak their native language, most indigenous people and *mestizos* with indigenous features faced pervasive societal discrimination and prejudice. Many factors impeded their ability to participate in, and facilitated their deliberate exclusion from, decision-making directly affecting their lands, culture, traditions, and the allocation of natural resources. Pervasive discrimination and social prejudice intensified perceptions of inferiority and second-class citizenship. Many indigenous people lacked basic identity documents that normally would identify them as full citizens and enable them to play an active part in society (see section 5, Other Societal Abuses).

Other factors contributed to the marginalization of indigenous people in society. Poor transportation, language barriers, and inadequate communications infrastructure in the highlands and in the Amazon jungle region made political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government in Lima further limited the access and

participation of indigenous people in society. The UN Children's Fund (UNICEF) reported that indigenous people in rural areas did not have equal access to public services, particularly health and education: 90 percent lived in poverty; only 39 percent completed primary school; and there were higher child and maternal mortality in indigenous areas, where only 20 percent of births took place in public health centers.

The indigenous population of the Amazon region, estimated at between 200 thousand and 300 thousand persons, faced pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the indigenous communities had a spiritual relationship with their land, and the concept of land as a marketable commodity was alien to them. Nevertheless, according to the director of the human rights ombudsman's Native Communities Program, the only right still statutorily set aside for this indigenous population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned to some nonindigenous tenant by right of tenure. However, the marketing and sale of the lands were not prohibited.

Indigenous groups continued to resist encroachment on their native lands. Many indigenous people did not have title to the land on which they lived. For those who did, title to land does not include mineral or other subsoil rights, which belong to the state; this problem led to conflicts between mining interests and indigenous communities.

On April 15, President Toledo signed a decree creating the National Institute of Development for Indigenous Peoples (INDEPA), which replaced the National Commission on the Amazon Region and Indigenous and Afro-Peruvian Affairs. INDEPA would promote government policies on the rights of indigenous people and coordinate between the government and indigenous organizations. INDEPA has ministry-level status and would be directed by a government council made up of representatives from different ministries, NGOs, and representatives elected by indigenous communities. Unlike its predecessor, INDEPA would have its own budget.

The Shining Path continued to be a leading violator of the rights of indigenous people. The terrorist group coerced indigenous peasants into joining its ranks and demanded war taxes. Terrorist pressure on indigenous communities continued during the year.

Other Societal Abuses and Discrimination.—The law provides all persons with the right to a name, nationality, and legal recognition, and the exercise of civil, political, economic, and social rights; however, sources estimated that more than 1 million undocumented citizens, including at least 312 thousand women, had no identity documents and thus were unable to avail of these rights. An estimated 15 percent of births were unregistered, and 95 thousand persons a year were born without a birth certificate. Poor indigenous women and children in rural areas were highly over-represented among those lacking basic identity documents.

Undocumented citizens were marginalized socially and politically and had difficulties accessing government services. They also faced barriers to registering their children, becoming candidates for political office, or holding title to land and homes.

One of the most significant obstacles to obtaining a National Identity Document (DNI) was the requirement to present supporting documents, such as a birth certificate and a public utility receipt, to DNI authorities. Women in rural areas who did not give birth at health establishments did not receive the certificate of live birth required for obtaining the birth certificate. These women also faced obstacles in retroactively obtaining a birth certificate. In an effort to lower infant mortality, the Ministry of Health fined women who did not give birth in clinics or hospitals. In many rural areas, these women could not pay the fines and, consequently, did not register their children.

On February 17, MIMDES, the National Office for Registry and Identification, the National Institute for Adolescent and Child Welfare, various utilities, the Catholic Church, and a variety of private companies, began the "National Crusade for the Right to a Name." The campaign would raise parents' awareness about the importance of getting birth certificates for their children. The coalition also carried out numerous events dedicated to public education and the training of local officials to promote universal birth registration. The coalition noted that an additional 21 thousand births were registered as the result of its activities.

Despite the absence of formal prohibitions, homosexuals faced extensive discrimination. There were indications during the year that homosexual rights gained a higher profile. On July 16, several hundred lesbians, homosexuals, and bisexuals marched in downtown Lima for the fourth consecutive year. Congresswoman Cecilia Tait, author of a draft law prohibiting sexual discrimination, addressed the marchers. Press reports announced the formation of a group of parents of homosexuals de-

signed to promote understanding of homosexual family members and to provide mutual support.

Section 6. Worker Rights

a. The Right of Association.—Although the law provides for the right of association, worker rights advocates claimed that the laws were overly restrictive. Judges, prosecutors, and members of the police and military were not permitted to form and join unions. Approximately 5 percent of the formal sector workforce of 8.5 million belonged to organized labor unions.

Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers were not required to seek authorization prior to forming a trade union, nor could employers legally condition employment on union membership or non-membership.

While the law regulates the hours for and established fundamental rights for domestic workers, the Ministry of Labor's limited ability to inspect conditions minimized the law's effect.

b. The Right to Organize and Bargain Collectively.—The law recognizes the right of public and private sector workers to organize and bargain collectively, but specifies that this right must be exercised in harmony with broader social objectives. A union must represent at least 20 workers to become an official collective bargaining agent. Representatives could participate in collective bargaining negotiations and establish negotiating timetables.

Although a conciliation and arbitration system exists, union officials complained that their proportionate share of the costs of arbitration often exceeded their resources. In addition union officials claimed that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers "temporarily" to prevent increases in the number of union members. The law restricts the number of temporary workers hired to 20 percent of a company's work force, although labor advocates claimed that some companies did not comply with this limit.

The law provides for the right to strike, and workers exercised this right in practice. The law restricts unions that represent workers in public services deemed essential by the government from striking and requires strikers to notify the Ministry of Labor in advance of their intention to carry out a job action. According to the Ministry of Labor, there was a single legal strike and 45 illegal strikes between January and August. Labor leaders alleged that it was difficult to get approval for a legal strike and believed that the Ministry of Labor was reluctant to do so for fear of hurting the economy.

There are four export processing zones (EPZs). Special regulations for the EPZs provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand.

c. Prohibition of Forced or Compulsory Labor.—While the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred.

Narcotics traffickers and Shining Path terrorists continued to hold indigenous families captive in remote areas, using their labor, including that of children, to grow food crops and coca (see section 5). There were also reports that illegal loggers employed forced labor in the Amazon region.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the law restricts child labor based upon the age of the child, hours worked, and occupation, child labor remained a serious problem. In practice the law's provisions were violated routinely in the informal sector. The legal minimum age for employment is 14; however, children between the ages of 12 and 14 may work in certain jobs for up to 4 hours per day, and adolescents between ages 15 to 17 may work up to 6 hours per day if they obtain special permission from the Ministry of Labor and certify that they also were attending school.

In certain sectors of the economy, higher minimum ages were in force: age 15 in industrial, commercial, or mining work and age 16 in the fishing industry. The law prohibits children from engaging in certain types of employment, such as work underground, work that involves the lifting and carrying of heavy weights, work where the child or adolescent is responsible for the safety of others, work at night, or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school.

In January the Ministry of Labor created a special Office of Labor Protection for Minors (PMT). The PMT issued permits authorizing persons under age 18 to work legally under conditions deemed acceptable by law. During the year the PMT grant-

ed 898 permits for jobs in the formal sector to children between the ages of 12 and 17.

INEI estimated that 2.3 million children between 6 and 17 years of age were engaged in work, of whom 1.9 million labored in the informal sector.

Forms of child labor varied. In rural areas, many children worked on small farms with their parents, in artisanal mining, or were sent to cities to work as domestics. In urban settings, children often worked on the streets, performing, selling candy, begging or shining shoes; or as scavengers in municipal dumps. Children on the outskirts of Lima also labored in brick-making.

Employers frequently required long hours from their live-in charges, compelling them to carry out comprehensive duties, including cooking and childcare, for wages as low as \$20 to 30 (69 to 103 soles) per month.

INEI estimated in 2001 that 80 percent of children who worked continued to attend school. In 2004 the Ministry of Education took measures to make education more accessible for children compelled to work by establishing an innovative tutor program, whereby teachers would be responsible for overseeing groups of students and dedicating after-class time to those whose work made regular attendance difficult. The ministry also made night schools more available to working children.

Although there were no reliable statistics on its extent, NGOs and other observers maintained that the country suffered a serious problem with adolescent prostitution (see section 5), as demonstrated by police raids on clandestine brothels.

The Ministry of Labor is responsible for enforcing child labor laws, and its inspectors had legal authority to investigate reports of illegal child labor practices. Inspectors conducted routine visits without notice to areas where child labor problems were reported. Firms found guilty of violating child labor laws may be fined and have their operations suspended. Inspectors made more than 4,800 visits during the year and levied fines against 182 firms for violations of health and safety issues.

Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. The Ministry of Labor reported that there were 236 labor inspectors, an increase of approximately 30 percent compared with the previous year. Inspections focused on the formal sector. The PNP and local prosecutors exercised law enforcement authority.

In addition to labor inspectors, the Offices of the Ombudsman for Children and Adolescents (DEMUNA) receive complaints regarding violations of child labor laws. More than one thousand DEMUNAs were located in communities throughout the country. MIMDES also maintained the "street educator" program, which sent specialized teachers to the streets to provide education and support to minors involved in public begging or working as bootblacks.

In August 2004 the government established the National Committee to Prevent and Eradicate Child Labor (CPETI) composed of representatives from a variety of ministries, NGOs, labor unions, and employers organizations as well as the ILO, the Pan American Health Organization, and UNICEF. During March and April, the group held an extensive series of regional consultations on its draft 10-year plan to eliminate child labor for children under 14 and to offer greater protections for children ages 14 to 18 who must work. In September the government officially adopted the plan through publication of a supreme decree. In addition CPETI members carried out a number of campaigns to raise awareness of the problem of child labor.

In June MIMDES head Ana Maria Romero declared the remote village of Santa Filomena to be "the first mining community free from child labor." As part of a program that ran from 2000–05, Santa Filomena became the site of an experiment supported by the government, the ILO, and the NGO *Cooperacion* to establish a mechanized gold processing plant to replace children in the collection of gold scraps.

Narcotics traffickers routinely violated the rights of children in their efforts to produce illegal drugs. In August 2004 the National Commission for Development and Life Without Drugs estimated that five thousand children were employed in the illegal narcotics industry, an activity that exposed them to a variety of toxic chemicals that could have effects that range from death to damage to a person's nervous system, blisters, or burns.

e. Acceptable Conditions of Work.—The law states that workers should receive a "just and sufficient" wage to be determined by the government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal." The statutory minimum wage was \$134 (460 soles), which did not provide a decent standard of living for a worker and family. The government estimated the poverty line to be approximately \$65 (224 soles) a month per person, a figure that varied by region. INEI's 2003 survey showed the poverty line at \$75 (258 soles) a month per person for Lima, compared with \$55 (189 soles) for the rural jungle. According to some estimates, as much as half the workforce earned the minimum wage or below because such a great proportion worked in the largely unregu-

lated informal sector. The Ministry of Labor was responsible for enforcing the minimum wage, which was enforced in the formal sector.

The law provides for a 48-hour workweek and a weekly day of rest. The law requires companies to pay overtime to employees who work more than 8 hours and to provide additional compensation for work at night. Labor, business, and the government reported that the majority of companies in the formal sector complied with the law.

While occupational health and safety standards exist, the government lacked the resources to monitor firms or enforce compliance. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases. When firms were found to be in violation of the law, the government normally punished them with fines. In cases of industrial accidents, the level of compensation awarded to the injured employee usually was determined by agreement between the employer and the individual involved. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.

SAINT KITTS AND NEVIS

Saint Kitts and Nevis is a multiparty, parliamentary democracy and federation, with a population of approximately 46,700. The constitution provides the smaller island of Nevis considerable self-government under a premier, as well as the right to secede from the federation in accordance with certain enumerated procedures. In the 2004 national elections, Prime Minister Denzil Douglas's Saint Kitts and Nevis Labour Party (SKNLP) won 7 seats in the 11-seat legislature, although international observers considered the electoral process flawed. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in a few areas:

- poor prison conditions
- lack of opposition access to government-controlled media
- corruption
- violence against women

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings, but police allegedly committed unwarranted killings.

In April police shot and killed Rechalieu Henry, who, according to press reports, was attempting to escape from custody. Authorities were awaiting an inquest hearing at year's end.

In August police shot and killed Garnet Tyson after police claimed he attacked them with a knife. The press reported that a witness to the shooting said that Tyson was not holding a knife, nor did he appear to be a threat to the police. An initial inquiry into the Tyson case was pending completion at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prisons were overcrowded, and resources remained limited. The prison on Saint Kitts had a capacity for 150 prisoners but held 180 prisoners at year's end, including 5 females; some prisoners slept on mats on the floor. A low-security prison on Nevis held 29 inmates. Corporal punishment is legal; a court can order that an accused person receive lashes if found guilty. The prison staff periodically received training in human rights.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The security forces consist of a small (400-officer) police force, including a paramilitary Special Services Unit, a coast

guard, and a small defense force. Military forces patrolled jointly with the police. The military and the police report to the Ministry for National Security, Justice, and Labor.

Senior officers investigated complaints against members of the police force, and criminal offenses are referred to the director of public prosecutions. The police force continued to conduct its own internal investigation when complaints were made against its members.

Arrest and Detention.—Police may arrest a person based on the suspicion of criminal activity without a warrant. The law requires that persons detained be charged within 48 hours or be released. If charged, a detainee must be brought before a court within 72 hours. There is a functioning system of bail. Family members, attorneys, and clergy were permitted to visit detainees regularly.

There were no reports of political detainees.

There were 28 prisoners in pretrial detention and 29 awaiting a court hearing at year's end. Detainees may be held for a maximum of seven days awaiting a bail hearing. Those accused of serious offenses are remanded to custody to await trial, while those accused of minor infractions are released on their own recognizance.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The court system includes a high court and four magistrate's courts at the local level, with the right of appeal to the Eastern Caribbean Court of Appeal. Final appeal may be made to the Privy Council in the United Kingdom.

Trial Procedures.—The law provides for a fair, speedy, and public trial, and these requirements generally were observed. Defendants have the right to be present and to consult with counsel in a timely manner. There is a presumption of innocence, and defendants may question or confront witnesses. Free legal assistance was available for indigent defendants in capital cases only.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such practices, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

While the independent media were active and expressed a wide variety of views, the opposition People's Action Movement (PAM) party continued to allege that the ruling SKNLP blocked PAM's access to the government-controlled media. The PAM acknowledged, however, that it had access to independent media outlets.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitism. There was no organized Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law does not address forced exile, but the government did not use it.

Protection of Refugees.—Although the country is a signatory of the 1951 UN Convention relating to the Status of Refugees, the government has not established a system for providing protection to refugees or asylum seekers. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. All citizens 18 years of age and older may register and vote by secret ballot.

Elections and Political Participation.—In the October 2004 general elections, Prime Minister Denzil Douglas's SKNLP was returned to office after winning 7 of 8 Saint Kitts-assigned seats in the 11-seat National Assembly. The PAM party won one seat after nearly five years without representation. Nevis Premier Vance Armory's Concerned Citizens Movement (CCM) party won two of the three assembly seats assigned to Nevis. The Commonwealth observer team categorized the electoral rules as "followed but flawed," and there were reports of vote fraud, intimidation, and foreign influence. During and after the election, government information services touted the SKNLP and criticized the opposition.

Shortly before the election, the government deported Derek Ramsamooj, a Trinidadian who served as a political consultant to the opposition party. The government charged that Ramsamooj was a threat to the country's national security and suggested that he had been responsible for opposition efforts to intimidate voters and foment instability. In June Ramsamooj returned from Trinidad only to be removed from the country again.

The governor general appoints three senators, two on recommendation of the prime minister and one on the recommendation of the leader of the opposition. The island of Nevis exercises considerable self-government, with its own premier and legislature.

A multiparty political system existed, in which political parties were free to conduct their activities; however, the PAM continued to allege that the ruling party restricted access to the media (see section 2.a.). The PAM also alleged widespread employment discrimination by the SKNLP against public sector employment of persons perceived to be PAM supporters.

There were 2 women in the parliament and no women in the cabinet; 3 of 4 magistrates were women, the court registrar was a woman, and 6 of 11 permanent secretaries were women. In addition in Nevis one cabinet member and the president of the House of Assembly were women.

Government Corruption and Transparency.—There were a number of allegations of corruption in the government. The opposition PAM party continued to allege corrupt electoral practices. In Nevis the Reformation Party accused the ruling CCM of corruption in the sale of land at preferential prices, among other corrupt practices, and called for an official inquiry. Businesses also complained of high-level corruption in large foreign investment projects.

While no laws provide for public access to government information, the government maintained a Web site with limited information concerning government actions.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

While there are no governmental restrictions on human rights groups, no local human rights groups operated in the country. There were no requests for investigations or visits by international human rights groups during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, place of origin, birth out of wedlock, political opinion or affiliation, color, gender, or creed, and the government generally respected these prohibitions in practice.

Women.—Violence against women was a problem. The law criminalizes domestic violence, including emotional abuse, and provides penalties of up to \$5 thousand (EC\$13,500) and/or 6 months in prison. Although many women were reluctant to file complaints or pursue them in the courts, the Department of Gender Affairs reported 30 cases of domestic violence in 2004, the most recent data available. The department offered counseling for victims of abuse and conducted training on domestic violence and gender violence for officials in the police and fire departments, nurses, school guidance counselors, and other government employees. In addition the department's permanent secretary participated in a weekly radio program to discuss gender issues, including domestic violence.

The law prohibits rape but does not address spousal rape. Penalties for rape range from 2 years' imprisonment for incest between minors to life imprisonment for statutory rape or incest with someone under 16. Indecent assault and incest with a person 16 or older carry a penalty of 10 years' imprisonment.

Prostitution is illegal and was not considered to be a problem.

The law does not specifically address sexual harassment, and it remained a problem.

The role of women in society is not restricted by law but was circumscribed by culture and tradition. There was no overt societal discrimination against women in employment, although analyses suggested that women did not occupy as many sen-

ior positions as men did. The Department of Gender Affairs conducted programs addressing poverty and health and promoting institutional mechanisms to advance the status of women and leadership positions for women. It operated three programs for rural women, providing them with market skills and training as entrepreneurs. The department provided clients assistance with problems such as lack of housing, unemployment, child care, technical training, and personal development. It also ran the Viola Project, a program to encourage young mothers to complete their education, which had 17 participants during the year. The department produced three handbooks on sexual harassment, equal opportunity and employment, and equal pay for work of equal value. The department continued its programs focusing on men as perpetrators of crimes of violence against women.

Children.—The government was committed to children's rights and welfare. Education is compulsory, free, and universal, up to the age of 16. More than 98 percent of children completed secondary school.

Free medical care was provided for children, and boys and girls had equal access. The law sets the age of consent at 16. Authorities brought charges in 22 cases involving alleged sexual activity with minors (statutory rape) and 5 cases of incest (which includes sexual activity with any member of the household) in 2004, the most recent data available.

Trafficking in Persons.—While no laws address trafficking in persons specifically, there were no reports that persons were trafficked to, from, or within the country.

The country continued an economic citizenship program, whereby foreign investors were permitted to purchase passports through loosely monitored procedures requiring an investment of at least \$250 thousand (EC\$675 thousand) in real estate and an additional registration fee of \$35 thousand (EC\$94,500) for the head of household (amounts varied for other family members). This process reportedly facilitated the illegal immigration of persons from China and other countries to North America, where, in some instances, criminal organizations that provided the funds to such persons forced them to work under conditions similar to bonded labor until the debt was repaid. The government denied any knowledge of illegal immigration facilitated through this program and asserted that applicants were screened adequately.

Persons with Disabilities.—While the law prohibits discrimination, it does not specifically cite discrimination against persons with disabilities. There was no reported discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—Workers exercised their legal right to form and join trade unions. Employers were not bound legally to recognize a union, but in practice employers did so if a majority of workers polled wished to organize. Approximately 10 percent of the workforce was unionized. The law permits the police, civil service, and other organizations to organize associations that serve as unions. The major labor union, the Saint Kitts Trades and Labour Union (SKTLU), was associated closely with the SKNLP and was active in all sectors of the economy. The opposition PAM party alleged that the ruling party used its influence to stifle other unions that would threaten the SKTLU in the workplace.

The law prohibits antiunion discrimination but does not require employers found guilty of such action to rehire employees fired for union activities. However, the employer must pay lost wages and severance pay to employees who had worked at least one year, based upon their length of service.

b. The Right to Organize and Bargain Collectively.—Labor unions have the legal right to organize and to negotiate for better wages and benefits for union members, and the government protected these rights in practice. A union that obtains membership of more than 50 percent of employees at a company can apply to be recognized by the employer for collective bargaining. There are no export processing zones.

The right to strike, while not specified by law, is well established and respected in practice. Restrictions on strikes by workers who provide essential services, such as the police and civil servants, were enforced by established practice and custom, but not by law.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

Prisoners were required to work if their sentence was more than 30 days and stipulated "hard labor." They received a small stipend for this work, paid upon discharge.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits slavery, servitude, and forced labor of children, and the Department of Labor effectively enforced this law in practice. There were no reported complaints of child labor during the year. The minimum legal working age is 16 years. The Department of Labor relied heavily on school truancy officers and the Community Affairs Division to monitor compliance, which they generally did effectively.

Juveniles worked in agriculture, domestic service, and illicit activities. In rural areas where families engaged in livestock farming and vegetable production, children often were required to assist as part of family efforts at subsistence. Girls often engaged in domestic service. Such labor included family-oriented work where children were made to look after younger siblings or ailing parents and grandparents at the expense of their schooling. Children often worked in other households as domestic servants or babysitters. Society does not consider domestic work exploitative child labor.

e. Acceptable Conditions of Work.—Minimum wage rates for various categories of workers, such as domestic servants, retail employees, casino workers, and skilled workers, were last updated in 1994, and manufacturing sector wages were revised in 1996. The minimum wage for full-time domestic workers was \$56 (EC\$150) per week and \$74 (EC\$200) per week for skilled workers. However, average wages were considerably higher in these and all other categories, and there was no need to enforce the outdated legal minimum wages, which would not provide a decent standard of living for a worker and family. Many workers supplemented wages by keeping small animals such as goats and chickens, or other activities. The Labor Commission undertook regular wage inspections and special investigations when it received complaints; it required employers found in violation to pay back wages.

The law provides for a 40- to 44-hour workweek, but the common practice was 40 hours in 5 days. Although not required by law, workers receive at least one 24-hour rest period per week. The law provides for premium pay for work above the standard workweek. There was no legal prohibition of excessive or compulsory overtime, although local custom dictated that a worker could not be forced to work overtime.

While there were no specific health and safety regulations, the law provides general health and safety guidance to Department of Labor inspectors. The Labor Commission settles disputes over safety conditions. Workers have the right to report unsafe work environments without jeopardy to continued employment; inspectors then investigate such claims, and workers may leave such locations without jeopardy to their continued employment.

SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy with a population of approximately 163 thousand. In generally free and fair elections in 2001, Prime Minister Kenny Anthony's Saint Lucia Labour Party (SLP) retained power, winning 14 seats in the 17-member House of Assembly. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in a few areas:

- physical abuse of suspects and prisoners by the police
- long delays in trials and sentencing
- violence against women
- child abuse

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Although the government or its agents did not commit any politically motivated killings, security forces killed four persons during the year.

In February police shot and killed Remy Jeremie after he reportedly shot at police officers who attempted to apprehend him and several accomplices engaged in an attempted robbery. Hudson James was shot and killed by police in April. In June police killed a mentally challenged person, Stephen Sylvester, who allegedly threat-

ened to attack a police officer. Lewis Pelage was shot and killed by police in September. All four cases were under investigation at year's end.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them. However, prisoners and suspects regularly complained of physical abuse by police and prison officers. There were 146 complaints against the police, the majority of which were for the use of excessive force (see section 1.d.).

In April police arrested Natasha Joseph and charged her with killing her brother. Joseph told the press that, during several days in custody, police officers denied her right to counsel and allegedly used threats and intimidation in an attempt to obtain a confession. In July a plainclothes police officer reportedly shot Brian Felix during an argument and left him injured without arresting him or seeking medical attention. A bystander took Felix to a hospital, where police then detained him. In October a police officer allegedly beat Mathurine Williams for making a negative comment to him, requiring subsequent hospital treatment for a broken finger and other physical injuries.

Prison and Detention Center Conditions.—Prison conditions generally met minimum international standards at the 2-year-old Bordelais Correctional Facility, which had a capacity of 500 prisoners and held approximately that number of prisoners. There were complaints regarding the treatment of prisoners at the facility.

In September the press reported that an attorney complained to the judge during a sentencing proceeding that guards had beaten clients of his who were prisoners at Bordelais prison. Also in September the press reported allegations that guards severely beat prisoner Wilson Exhale, who was left in his cell unconscious and denied medical treatment for several days. The attorney who heads the National Center for Legal Aid and Human Rights charged that 10 prison guards had beaten Exhale and called for the government to investigate a "culture of torture and inhumane treatment of inmates." The government denied that such a situation existed and stated that the incident involved only a single guard and Exhale, who had a history of violence and had once beaten a prison guard unconscious. The case was under investigation at year's end.

The Boy's Training Center, a juvenile detention center that operated separately from the prison, held 14 juveniles between 12 and 18 years of age. A fire broke out at the facility in November, killing 12-year-old Jamal Roberts. The incident was under investigation at year's end. Following the fire, the press reported on allegations of poor conditions and harsh treatment of the juveniles at the facility, including beatings by police officers.

The government permitted prison visits by independent human rights observers, although no such visits were known to have taken place during the year.

d. Arbitrary Arrest or Detention.—The constitution prohibits arbitrary arrest or imprisonment, and the government generally adhered to these provisions in practice.

Role of the Police and Security Apparatus.—The Royal Saint Lucia Police numbered 704 officers, which included a 35-officer Special Services Unit with some paramilitary training and a coast guard unit. The police force reports to the Ministry of Home Affairs and Internal Security. The police commissioner continued implementation of a community policing initiative to increase professionalism, prevent crime, and address customer service issues. The police force's internal complaints unit received and investigated complaints made by the public against police officers. The complaint unit's findings were sent to the Police Complaints Commission, a civilian body, which reviewed the cases and made recommendations for internal disciplinary action to the police commissioner.

During the year the police force's complaints unit received 146 complaints against police officers, 89 of which were investigated. Sufficient evidence was found to sustain 24 complaints, which were sent to the Police Complaints Commission with recommendations that disciplinary action be taken against the police officers cited.

Arrest and Detention.—The law stipulates that persons must be apprehended openly with warrants issued by a judicial authority and requires a court hearing within 72 hours of detention. Detainees are allowed prompt access to counsel and family. There is a functioning bail system.

There were no reports of political detainees.

Prolonged pretrial detention continued to be a problem; 33 percent of the nearly 500 prisoners at Bordelais Correctional Facility were on remand awaiting trial. Those charged with serious crimes spent an estimated six months to four years in pretrial detention. In September the press reported that an attorney complained to

a judge about four individuals charged in a murder case who had each been held on remand for three years and seven months.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The court system continued to face a serious backlog of cases. The average time for a trial was 3 to 6 months in the magistrate's courts and 6 to 12 months for nonpetty criminal cases, although persons charged with serious crimes were held in detention for up to 4 years. To address this backlog, the courts began hearing serious criminal cases throughout the year, instead of three times per year.

The two-level court system includes the courts of summary jurisdiction (magistrate's courts) and the High Court, both of which have civil and criminal authority. The lower courts accept civil claims up to approximately \$1,850 (EC\$5 thousand) and criminal cases generally classified as "petty." The High Court has unlimited authority in both civil and criminal cases. All cases may be appealed to the Eastern Caribbean Court of Appeal. Cases also may be appealed to the Privy Council in London as the final court of appeal. A family court handles child custody, maintenance, support, domestic violence, juvenile affairs, and related matters.

Trial Procedures.—The law provides for public trials before an independent and impartial court and, in cases involving capital punishment, provision of legal counsel for those who cannot afford a defense attorney. While there was no requirement for a speedy trial, the government used the magistrate's court located in the prison to reduce processing time for court hearings after detention. In criminal cases not involving capital punishment, defendants must obtain their own legal counsel. Defendants are entitled to select their own representation, are presumed innocent until proven guilty in court, and have the right of appeal. Defendants have the right to confront or question witnesses. Authorities observed both constitutional and statutory requirements for fair public trials.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

The independent media were active and expressed a wide variety of views without restriction. Local media outlets and the opposition party continued to voice concerns over the "spreading false news" clause, enacted in 2003 as part of the new Criminal Code.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Two Rastafarians, convicted of murder and arson and sentenced to hang in 2003 for attacking parishioners at a Catholic Mass in 2000, remained on death row.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitism. There was no organized Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and it was not used.

Protection of Refugees.—No formal government policy toward refugee or asylum requests existed. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In 2001 in elections that generally were considered free and fair, Prime Minister Anthony's SLP defeated the United Workers Party, led by Morella Joseph. The SLP won 14 of 17 seats and 55 percent of the popular vote. The governor general appoints the 11-member Senate, which included 2 independents.

Eight women competed in the elections in a field of 45 candidates for 17 positions. Voters elected two women to the House of Assembly, and there were four appointed female senators. One of the 14 members of the cabinet was a woman, as was the governor general.

Government Corruption and Transparency.—The public perception of corruption in government was reportedly low, although there was a perception that obtaining public sector jobs was tied to political ties and cronyism.

The law provides for public access to information, and parliamentary debates are open to the public. The Government Information Service disseminated public information on a daily basis, operated an extensive website, and published a number of official periodicals.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A few domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although the government officially cooperated with such investigations, observers noted occasional reluctance by lower level officials to cooperate.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

While neither the constitution nor the law addresses discrimination specifically, government policy was nondiscriminatory in the areas of housing, jobs, education, and opportunity for advancement.

Women.—Violence against women was recognized as a serious problem. The government prosecuted crimes of violence against women only when the victim pressed charges. The family court heard cases of domestic violence and crimes against women and children. The Ministry of Health, Human Services, Family Affairs, and Gender Relations reported 34 cases of domestic violence in 2004; more recent figures were not available. Most of the cases were referred to a counselor, and the police facilitated the issuance of court protection orders in some. Rape, including spousal rape, is a crime punishable by 14 years' to life imprisonment. Police and courts enforced laws to protect women against abuse, although police were hesitant to intervene in domestic disputes, and many victims were reluctant to report cases of domestic violence and rape or to press charges.

The police force conducted some training for police officers responsible for investigating rape and other crimes against women. A special police unit handled domestic violence, and its officers, who include women, worked closely with the Ministry of Home Affairs and the Office of Gender Relations.

The law allows a judge to issue a protection order prohibiting an abuser from entering or remaining in the place where the victim is living. It also allows the judge to order that an abuser's name be removed from housing leases or rental agreements, revoking the right of the abuser to live in the same residence as the victim.

The Saint Lucia Crisis Center Committee, a nongovernmental organization located in Castries, in 2004 monitored nine cases of physical violence and also helped clients to deal with such problems as incest, nonpayment of child support, alcohol and drug abuse, homelessness, custody, and visitation rights. During the year the Women's Support Center, a government shelter for abused persons, received crisis calls and offered residential services to clients and their dependent children. The center also engaged in an active community outreach program that included visits to schools, health centers, and community centers.

Prostitution is illegal, but it was a growing problem. The police did not take serious action against certain nightclubs despite some reports of trafficking.

Sexual harassment is prohibited under the Criminal Code that came into effect in January; however, it remained a problem.

Women generally enjoy equal rights, including in economic, family, property, and judicial matters. Women's affairs were under the jurisdiction of the Ministry of Health, Human Services, Family Affairs, and Gender Relations. The ministry was responsible for protecting women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

Children.—The government gave high priority to improving educational opportunities and health care for children.

Education was compulsory from age 5 through 15; registration fees were required. Approximately one-third of primary school children continued on to secondary

schools, and the dropout rate from primary to secondary school was higher for boys than for girls.

Government clinics provided prenatal care, immunization, child health care, and health education services. Boys and girls had equal access to medical care.

During the year the Ministry of Health, Human Services, Family Affairs, and Gender Relations reported 75 cases of child sexual abuse, 95 cases of physical abuse, 29 cases of psychological abuse, and 107 cases of neglect and abandonment. The media criticized the ministry's Division of Human Services for failing to respond sufficiently to reports of sexual abuse of children, including alleged cases of incest. As there was no welfare system, parents of sexually abused children sometimes declined to press sexual assault charges against the abuser in exchange for financial contributions toward the welfare of children born of such abuse.

In May a judge sentenced Dunedin Alexander to 15 years' imprisonment for sexually abusing an 11-year-old girl and Garvin Palm to 10 years' imprisonment for attempted sexual abuse of a 12-year-old girl. The press reported that during the proceedings, the judge remarked about the increasing number of criminal cases involving adults allegedly having sex with children, which he said constituted 14 of the 30 cases then before the court. Of 32 court cases heard on a single day, 13 were for sexually related offenses including rape, sexual assault on a minor, and incest. The press also reported an increase of cases of sexual assault on minors, with 65 cases in 2004 compared with 49 in 2003.

Trafficking in Persons.—The law does not prohibit trafficking in persons, and there were reports that persons were trafficked to, from, or within the country. There are laws prohibiting slavery, forced labor, forced imprisonment, or kidnapping that could be used to prosecute alleged traffickers.

In June the International Organization for Migration (IOM) released an exploratory assessment that identified the country as one of several in the region in which trafficking occurred. The findings of the report suggested that persons, including children, were trafficked to and within the country to work in prostitution. The IOM report cited anecdotal evidence of women from other Caribbean countries who had been promised jobs as waitresses, only to find themselves coerced into working as prostitutes.

The government acknowledged that despite a lack of documented cases of trafficking, surveys and media reports indicated that it occurred. The country had a growing sex tourism industry with a number of strip clubs and brothels, many of which were staffed by women from the Dominican Republic and other Caribbean islands.

In October the government's Office of Gender Relations held two workshops addressing the role of both the public and private sectors in curbing trafficking. The government also began training health care professionals and police officers how to identify situations in which trafficking may have occurred.

Persons with Disabilities.—No specific legislation protects the rights of persons with disabilities or mandates provision of access to buildings or government services for them. The government is obliged to provide disabled access to all public buildings, and several government buildings had ramps to provide access. There was no rehabilitation facility for persons with physical disabilities, although the health ministry operated a community-based rehabilitation program in residents' homes. There were schools for the deaf and for the blind until the secondary level. There also was a school for persons with mental disabilities.

Other Societal Abuses and Discrimination.—There was widespread stigma and discrimination against persons infected with HIV/AIDS, although the government implemented several programs to address this issue, including a 5-year program to combat HIV/AIDS. The UN Population Fund also provided support for youth-oriented HIV/AIDS prevention programs.

Section 6. Worker Rights

a. The Right of Association.—The law specifies the right of workers to form or belong to trade unions under the broader rubric of the right of association. Most public sector employees and approximately 36 percent of the total work force was unionized.

b. The Right to Organize and Bargain Collectively.—Unions have the legal right to engage in collective bargaining, and they exercised this right in practice. The law regulates internal union governance and also provides that an employer must recognize a union if the union obtains the support of 50 percent plus one of the employees at a particular business.

Strikes in both the public and private sectors were legal, but there were many avenues such as collective bargaining agreements and government procedures that

often precluded a strike. The law prohibits members of the police and fire departments from striking on the grounds that these professions were “essential services.” Workers in other “essential services”—water and sewer authority workers, electric utility workers, nurses, and doctors—must give 30 days’ notice before striking.

Labor law is applicable in the export processing zones, and there were no administrative or legal impediments to union organizing or collective bargaining in those zones; however, there were no unions registered in these zones.

c. Prohibition of Forced or Compulsory Labor.—The government prohibits forced or compulsory labor, and there were no reports that such practices occurred. While there is no specific prohibition of forced or compulsory labor by children, there were no reports of such practices.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides for a minimum legal working age of 16 years. The minimum legal working age for industrial work is 18 years. Child labor existed to some degree in the rural areas, primarily where larger, stronger, school-age children helped harvest bananas from family trees. Children also typically worked in urban food stalls or sold confectionery on sidewalks. However, these activities occurred on nonschool days and during festivals. The Department of Labor of the Ministry of Labor Relations, Public Service, and Cooperatives was responsible for enforcing statutes regulating child labor. Employer penalties for violating the child labor laws were \$3.55 (EC\$9.60) for a first offense and \$8.88 (EC\$24) for a second offense. There were no formal reports of violations of child labor laws.

e. Acceptable Conditions of Work.—Minimum wage regulations in effect since 1985 set wages for a limited number of occupations. The minimum monthly wage for office clerks was \$111 (EC\$300), for shop assistants \$74 (EC\$200), and for messengers \$59 (EC\$160). The minimum wage did not provide a decent standard of living for a worker and family, but most categories of workers received much higher wages based on prevailing market conditions. The 1999 Minimum Wage Act established a commission responsible for setting a minimum wage level; it met during 2003, but it had not finished its work by year’s end.

There is no legislated workweek, although the common practice was to work 40 hours in 5 days. Special legislation covers work hours for shop assistants, agricultural workers, domestics, and persons in industrial establishments.

While occupational health and safety regulations were relatively well developed, there was only one qualified inspector for the entire country. The ministry enforced the act through threat of closure of the business if it discovered violations and the violator did not correct them. However, actual closures rarely occurred because of lack of staff and resources. Workers had the legal right to leave a dangerous workplace situation without jeopardy to continued employment.

SAINT VINCENT AND THE GRENADINES

St. Vincent and the Grenadines is a multiparty, parliamentary democracy with a population of approximately 117 thousand. Prime Minister Ralph Gonsalves’ Unity Labor Party (ULP) was returned to office in December elections that international election observers assessed as generally free and fair. The opposition questioned the results in several constituencies and said it intends to formally challenge them in court. The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were problems in a few areas:

- impunity for police who used excessive force
- poor prison conditions
- an overburdened court system
- violence against women
- abuse of children

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, the government was investigating the deaths of Selwyn Moses, who police shot and killed in February, and Joel Williams, who was shot and killed in December.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, a local human rights group noted that a high percentage of convictions were based on confessions. The nongovernmental organization (NGO) St. Vincent and the Grenadines Human Rights Association (SVGHRA) believed that most confessions resulted from unwarranted police practices, including the use of physical force during detention, illegal search and seizure, and failure to inform properly those arrested of their rights. The SVGHRA complained that the government failed to investigate adequately allegations of abuse or punish those police officers responsible for such abuses.

During the year citizens filed 36 complaints charging use of excessive force by members of the police force. Police officers investigated all such complaints and submitted their findings to the police commissioner. The status of these complaint cases was unavailable at the end of the year. If the decision of the police commissioner did not satisfy complainants, they may appeal to the Police Oversight Committee (see section 1.d.).

In April police reportedly beat Leon Burgin while he was in custody at the central police station. At year's end the incident was under investigation.

In July police reportedly beat Moises Flores, a Venezuelan citizen. Flores, who suffered several broken bones while in police custody, was charged with resisting arrest and wounding a police officer, to which he pled not guilty. The charges were dropped, and he left the country without pursuing a complaint against the police.

Prison and Detention Center Conditions.—Prison conditions remained poor. Prison buildings were antiquated and overcrowded, with Her Majesty's Prison in Kingstown holding 355 inmates in a building designed for 75. These conditions resulted in serious health and safety problems.

A prison guard training program, initiated in 2003, instructed guards in methods used in the British prison system. Despite such reforms, problems such as endemic violence, understaffing, underpaid guards, uncontrolled weapons and drugs, an increase in HIV/AIDS, and unhygienic conditions persisted. During the year the government began an educational program that allowed prisoners to take classes in English, mathematics, computers, and job skill development.

The SVGHRA reported that prison guards routinely beat prisoners to extract information regarding escapes, violence, and crime committed in the prison.

The Fort Charlotte prison held nine female inmates in a separate section. Pretrial detainees and young offenders (16 to 21 years of age) were held with convicted prisoners. Conditions were inadequate for juvenile offenders.

The government permitted prison visits by independent human rights observers, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, complaints continued regarding police practices in bringing cases to court.

Role of the Police and Security Apparatus.—The Royal St. Vincent Police, the only security force in the country, includes a coast guard, a small Special Services Unit with some paramilitary training, and the fire service. There were 730 members of the police force, all of whom were law enforcement officers who could be rotated between the various parts of the force. The police report to the minister of national security, a portfolio held by the prime minister. The government operated an oversight committee to monitor police activity and hear public complaints about police misconduct. The committee reported to the minister of national security and to the minister of legal affairs and actively participated in investigations during the year.

Arrest and Detention.—The law requires arrest warrants in most instances, which are issued by judicial authority. Police apprehended persons openly, and detainees may seek judicial determinations after 48 hours if not already provided. The bail system functions and was generally effective. A local human rights group reported that most detainees were given prompt access to counsel and family members, although in some instances, access delays occurred.

Although there were only three official magistrates, the registrar of the High Court and the presiding judge of the family court effectively served as magistrates when called upon to do so. Defense attorneys claimed that 6- to 12-month delays occurred in preliminary inquiries for serious crimes.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary consists of lower courts and the High Court, with appeal to the Eastern Caribbean Court of Appeal and final appeal to the Privy Council in the

United Kingdom. There were three official magistrates, including the chief magistrate, a senior magistrate, and one other magistrate. In addition the registrar of the High Court has the authority to sit as a magistrate if called upon. The chief magistrate also served as president of the family court, which handled criminal cases for minors up to age 16.

Trial Procedures.—The law provides for fair, public trials, and an independent judiciary generally enforced this right. The court appoints attorneys only for indigent defendants charged with a capital offense. Defendants are presumed innocent until proven guilty, may confront and question witnesses, and may appeal verdicts and penalties. A backlog of pending cases continued, because the magistrate's court in Kingstown lacked a full complement of magistrates. A local human rights group reported that magistrates were overworked and underpaid.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The independent media were active and expressed a wide variety of views without restriction. There were three major newspapers and numerous smaller publications; all were privately owned. The sole television station and six of seven radio stations were privately owned.

During the year the government prosecuted and convicted a leading radio talk show host and opposition figure, Eduardo Lynch, for making false statements likely to cause public alarm. Lynch appealed the conviction to the Eastern Caribbean Court of Appeal, which had not rendered a decision by year's end. The statements were made during a March 4 meeting of the opposition New Democratic Party (NDP), where Lynch said that the government had a vehicle containing equipment capable of jamming radio signals and monitoring phone calls. The opposition charged that the government's prosecution of Lynch was politically motivated. The Association of Caribbean Media Workers, an independent NGO, expressed its concern over the prosecution.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Members of the Rastafarian community continued to complain that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination by the authorities on the basis of religious belief or simply enforcement of laws against marijuana, which was used as part of Rastafarian religious practice.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There is no organized Jewish community.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and it was not used.

Protection of Refugees.—Although the country is a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a system for providing protection to refugees or asylum seekers. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not grant refugee status or asylum. While the country does not receive refugees, in 2004 the government permitted victims of Hurricane Ivan from Grenada to stay in the country on a temporary basis. A Red Cross representative served as the honorary liaison with the office of the UN High Commissioner for Refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The ruling ULP was returned to office in December elections that international observers declared to be generally free and fair. The opposition NDP, however, claimed there were electoral irregularities that could have affected the outcome in three constituencies. The opposition said it intends to formally challenge the results in court. The nonpartisan SVGHRA also reported irregularities and questioned the ability of international observers to declare the election free and fair, citing the limited period of time that observer missions from both the Caribbean Community and the Organization of American States were in the country. The NGO specifically criticized the observers for failing to remain until all votes were counted. The elections produced no change in the makeup of the 15-seat parliament, with the ULP maintaining its 12 to 3 majority over the NDP.

There were two women in parliament and three women in the cabinet—the minister of education, the minister of urban development and labor, and the attorney general.

Government Corruption and Transparency.—Although the country had a national anticorruption plan, corruption remained a moderate problem. There was anecdotal evidence of corruption in government contracting and various other allegations. The opposition publicly raised charges of corruption in the awarding of a large contract for road improvements to a company owned by a government minister's brother; that minister oversaw transportation and public works.

The law provides for public access to information, and the government provided such access in practice.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no restrictions on international human rights groups, but none were known to have expressed interest or concern in the country during the year. A domestic human rights group, the SVGHRA, generally operated without government restriction, investigating and publishing its findings on human rights cases. Government officials generally were responsive, but the SVGHRA reported that its complaints regarding allegations of police brutality typically received perfunctory responses from the government. The SVGHRA continued to monitor government and police activities, particularly with respect to treatment of prisoners, publicizing any cases of abuse. The SVGHRA participated in training seminars.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equal treatment regardless of race or gender, and the government generally enforced this provision in practice.

Women.—Violence against women remained a serious problem. In January both the minister for social development and the attorney general highlighted the problem of violence against women during a ceremony to promote awareness of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, which the government has ratified. The Domestic Violence/Matrimonial Proceedings Act prohibits domestic violence, and 443 cases were filed in the family court. The SVGHRA reported that, in many instances, domestic violence went unpunished due to a culture in which victims learn not to seek assistance from the police or the prosecution of offenders.

The SVGHRA conducted numerous seminars and workshops throughout the country to familiarize women with their rights. Development banks provided funding through the Caribbean Association for Family Research and Action for a program on domestic violence prevention, training, and intervention. Police received training on domestic abuse, emphasizing the need to file reports and, if there was sufficient evidence, to initiate court proceedings. To counter the social pressure on victims to drop charges, some courts imposed fines against persons who brought charges but did not testify.

Rape, including spousal rape, is illegal, and the government effectively enforced the law. Depending on the magnitude of the offense and the age of the victim, the sentence for rape generally was 10 years to life in prison. During the year the police received 78 reports of rape; 31 of these were prosecuted and 47 were still under investigation at the end of the year.

Although prostitution is illegal, the local human rights group reported that it remained a problem among young women and teenagers.

The law does not specifically prohibit sexual harassment, although it could be prosecuted under other laws. The local human rights group believed these laws were ineffective and needed amendment to address this problem. In January the minister for social development said that reports of sexual harassment in the workplace had risen.

Women enjoyed the same legal rights as men. Women received an equitable share of property following separation or divorce. The Office of Gender Affairs, under the Ministry of Education, Women's Affairs, and Culture, assisted the National Council of Women with seminars, training programs, and public relations. The minimum wage law specifies that women should receive equal pay for equal work.

The government provided limited services for female victims of abuse and relied on NGOs to fill this role. Marion House, an independent social services agency, provided counseling and therapy services, as well as parenting and support programs for young adults aged 15 to 25.

Children.—The government was committed to children's rights and welfare. Primary education was compulsory, free, and universal, and the Ministry of Education estimated that 99 percent of primary school-age children attended school. In September the government made secondary education universal; prior to that the ministry estimated that approximately 83 percent of secondary school-age children attended school during the year. The government investigated cases in which children were withdrawn from school before the age of 16. As a supplement to secondary school, the government sponsored the Youth Empowerment Program, which was an apprenticeship program for young adults interested in learning a trade. Approximately 500 youths were enrolled in this program, earning a stipend of approximately \$148 (EC\$400) a month; private sector employers contributed additional amounts in some instances.

Boys and girls enjoyed equal access to health care.

Child abuse remained a problem. The law provides a limited legal framework for the protection of children, and the Family Services Department, Ministry of Social Development, monitored and protected the welfare of children. The Family Services Department referred all reports of child abuse to the police for action. During the year 63 cases of child abuse were sent to the family court.

Trafficking in Persons.—The law does not address trafficking in persons specifically, but there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There was no discrimination against persons with physical and mental disabilities in employment, education, access to health care, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities, and the circumstances for such persons generally were difficult. Most persons with severe disabilities rarely left their homes because of the poor road system and lack of affordable wheelchairs. The government partially supported a school for persons with disabilities, which had two branches. A separate, small rehabilitation center treated approximately five persons daily. The Ministry of Social Development is responsible for assisting persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—Workers exercised the legal right to form and join unions; however, no law requires employers to recognize unions. Less than 10 percent of the work force was unionized.

The Protection of Employment Act provides for compensation and worker rights, but these were restricted to protection from summary dismissal without compensation and reinstatement or severance pay if unfairly dismissed. This act protects workers from dismissal for engaging in union activities and provides them with reinstatement rights if illegally dismissed.

b. The Right to Organize and Bargain Collectively.—Although the law permits unions to organize and bargain collectively, and the government protected these rights in practice, no law requires employers to recognize a particular union as an exclusive bargaining agent. The Trade Dispute, Arbitration, and Inquiry Act provides that if both parties to a dispute consent to arbitration, the minister of labor can appoint an arbitration committee from the private sector to hear the matter. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice; however, the Essential Services Act prohibits persons providing such services (defined as electricity, water, hospital, and police) from striking.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum working age at 16, and workers may receive a national insurance card at that age. The Ministry of Labor monitored and enforced this provision, and employers generally respected it in practice. There were three general inspectors in the labor inspectorate with responsibility for monitoring all labor issues and complaints. The ministry reported no child labor problems. The age of leaving school at the primary level was 15 years; when these pupils left school, they usually were absorbed into the labor market as apprentices. The only recognized child labor was children working on family-owned banana plantations, particularly during harvest time, or in family-owned cottage industries. The government operated a youth employment service, which provided training and increased job opportunities by employing young people in government ministries for up to one year.

e. Acceptable Conditions of Work.—The Wages Council meets every two years to review minimum wages. Last set in 2003, minimum wages varied by sector and type of work. They are specified for several skilled categories, including attendants, packers, cleaners, porters, watchmen, and clerks. In agriculture, the minimum wage for workers provided shelter was \$9.26 (EC\$25) per day; industrial workers earned \$11.11 (EC\$30) per day. In many sectors, the minimum wage did not provide a decent standard of living for a worker and family, but most workers earned more than the minimum.

The law prescribes hours of work according to category, such as industrial employees (40 hours per week), professionals (44 hours per week), and agricultural workers (30 to 40 hours per week). The law provides that workers receive time-and-a-half for hours worked over the standard workweek. There was a prohibition against excessive or compulsory overtime, which was effectively enforced in practice.

Legislation concerning occupational safety and health was outdated, and enforcement of regulations was ineffective. Trade unions addressed some violations regarding safety gear, long overtime hours, and the safety of machinery. The law does not address specifically whether workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, but it stipulates conditions under which factories must be maintained. Failure to comply with these regulations would constitute a breach, which might cover a worker who refused to work under these conditions.

SURINAME

Suriname is a constitutional democracy, with a president usually elected by a unicameral legislature. The population is approximately 493 thousand. After generally free and fair elections in May, the New Front Plus government, a coalition of nine parties, was formed. On August 3, the United People's Assembly reelected Ronald Venetiaan as president. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in some areas:

- police mistreatment of detainees at the time of arrest
- abuse of prisoners by guards
- overcrowded detention facilities
- an overwhelmed judiciary with a large case backlog
- lengthy pretrial detention
- self-censorship by some media
- increased corruption in the executive branch
- societal discrimination against women, minorities, and indigenous people
- violence against women
- trafficking in women, girls, and boys
- child labor in the informal sector

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—Although the government or its agents did not commit any politically motivated killings, security forces killed two individuals during the year.

In April a police officer shot and killed an armed suspect who tried to escape arrest. An investigation vindicated the officer. In October a police officer shot and wounded an unarmed detainee who tried to escape from the police station; results of the investigation were pending at year's end.

No information was available as to whether any action was taken against the two officers who shot and killed a defenseless suspect in May 2004.

In June the Inter-American Court of Human Rights found the government guilty of human rights violations in the case of the 1986 massacre of at least 39 civilians at the N'Djuka Maroon village of Moiwana and the intentional destruction of their property by a unit of the National Army. The court ordered the government to pay \$13 thousand in reparations to each survivor, investigate the crimes, and conduct a public ceremony whereby the state recognizes its responsibility and apologizes to the N'Djuka people. On November 28, the Minister of Justice and Police stated that the government accepted the verdict and would implement it within the prescribed time limit. On November 30, a first large-scale commemoration ceremony took place in Moiwana, drawing over 300 attendees. In December the government formed a commission to see that the court's orders were properly executed. The attorney general also established a coordination team to investigate the Moiwana massacre and other crimes committed by the security forces that remain unpunished.

In mid-2004 the prosecutor's office completed its investigation into the 1982 killings by the Desi Bouterse regime of 15 prominent political, labor, business, and media leaders, ordered in 2000 by the Court of Justice. More than 20 suspects, including prime suspect—former military dictator (and current National Assembly member)—Desi Bouterse, were scheduled to be tried. At year's end the trial was pending a military court ruling on pretrial objections raised by defendants.

b. Disappearance.—Although there were no reports of politically motivated disappearances, the government had yet to investigate allegations of certain disappearances that occurred between 1983 and 1991.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the law prohibits such practices, human rights groups continued to express concern about official mistreatment and documented cases of police mistreatment of detainees, particularly during arrests, and abuse of prisoners by prison officials.

Human rights activists accused the police of using excessive force during arrests. There were reports that police shot and injured five suspects, including armed dangerous criminals, during arrests. In January police officers severely beat two suspects, one of whom required medical treatment. Results of an investigation by the Police Personnel Investigation Department (OPZ) were not available at year's end.

In August police officers beat an unarmed homeless man charged with theft during arrest.

In December a father and his 13-year-old daughter filed a complaint against the police for physical abuse on November 25 when the father, with his daughter in the car, entered and refused to leave the motorcade escorting the visiting Dutch prime minister to the airport. The father claimed that he suffered a lost tooth, a cut over his left eye, and a shoulder injury, and that his daughter was slapped by the police officer during the confrontation. The matter was under investigation at year's end.

Through November citizens filed 279 complaints with the OPZ, the majority of which were for physical mistreatment and neglect of duty (see section 1.d.). In January the minister of justice and police established a new Reporting Unit for Police Conduct, but the unit does not publicly disclose the number of inquiries received. The authorities arrested 53 officers and disciplined 151 for various offenses, including brutality; 7 officers were incarcerated, 21 were suspended, and 21 were fired. According to human rights groups, inadequate training of police officers serving as the jailers at local detention facilities contributed to the abuses.

Prison and Detention Center Conditions.—Prison conditions were poor. Most facilities, particularly older jails, remained unsanitary and seriously overcrowded, with as many as four times the number of detainees for which they were designed.

Violence among prisoners was common, but unlike previous years there were no complaints of mistreatment by guards.

Human rights monitors expressed concern about conditions in pretrial detention facilities, which remained overcrowded. A steadily growing number of people who had been convicted, but not yet placed in prisons due to a lack of space in prison

facilities, continued to be held in these detention cells. Because of staff shortages, police officers rarely permitted detainees to leave their cells. Detainees and human rights groups also complained about inadequate meals.

Conditions in women's jail and prison facilities were generally better than those in the men's facilities. Once sentenced, there was no separate facility for girls under the age of 18; girls were held in the women's detention center and in the women's section of one of the prison complexes.

Juvenile facilities for both boys and girls between the ages of 10 and 18 within the adult prison were considered adequate and included educational and recreational facilities. A separate wing of an adult prison held boys under age 18 who committed serious crimes. Conditions in the separate youth detention center remained inadequate, and prisoners and nongovernmental organizations (NGOs) complained about overcrowding and poor ventilation, physical and verbal abuse by the guards, and unchecked violence among detainees.

The government permitted visits by independent human rights observers. Representatives of the NGO *Moiwana '86* group reported that, in general they had access to prisoners and received cooperation from prison officials on routine matters.

d. Arbitrary Arrest or Detention.—While the law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions, prisoners who appealed their cases often served their full sentences due to the lengthy appeals process resulting from a shortage of judges.

The attorney general's office reiterated its concern that prisoners who served their original sentence were not released on a timely basis. Defense lawyers often utilized an article of the Code of Criminal Proceedings that allows a judge to release a suspect if the case against the accused appears weak.

Role of the Police and Security Apparatus.—The armed forces are responsible for national security and border control, with the military police having direct responsibility for immigration control at the country's ports of entry. All elements of the military are under the control of the minister of defense. Civilian police bear primary responsibility for the maintenance of law and order and reported to the Ministry of Justice and Police. Police effectiveness was hampered by a lack of equipment and training, low salaries, and poor coordination with other law enforcement agencies. While joint police and military operations were limited in the past, the ministers of justice and police and defense formalized their cooperation in October. Corruption remained a problem, and senior officers met monthly with the attorney general's office to review corruption and other cases against the police. Through November the OPZ had investigated 279 complaints against officers and made recommendations whether an officer should be punished internally or if criminal charges should be brought.

In December authorities dishonorably discharged and jailed two police officers who stole four machine guns from a police weapons depot; an investigation remained under way at year's end.

Arrest and Detention.—Individuals were apprehended with warrants and were promptly informed about the charges against them. The police may detain a person suspected of committing a crime for investigation up to 14 days if the sentence for that crime is longer than 4 years, and an assistant district attorney or a police inspector may authorize incommunicado detention. The police must bring the accused before a prosecutor to be charged formally in that period, but if additional time is needed to investigate the charge, a prosecutor and later a judge of instruction may extend the detention period an additional 150 days. There is no bail system. Detainees were allowed prompt access to counsel of their choosing, but the prosecutor may prohibit access if he thinks that this could harm the investigation. Detainees were allowed weekly visits from family members.

There were no reports of political detainees.

The average length of pretrial detention was 30 to 45 days for lesser crimes. Detainees often were held in overcrowded detention cells at local police stations. The number of persons in pretrial detention was estimated at 880, or 55 percent of the total prison population; 650 of them were held in the 7 detention cells in Paramaribo and the remainder in various cells in the country's districts. In practice the courts freed most detainees who were not tried within the 164-day period, in accordance with the law.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, disputes over the appointment of judges undermined the independence of the judiciary in recent years. In June the president confirmed the acting attorney general, who had served in the position since 2000. The attorney general is appointed for life. The president had yet to appoint a president of the Court of Justice; the acting president had occupied his position since 2000.

The judiciary was significantly hampered by a shortage of judges, which limited the effectiveness of the civilian and military courts. There were nine permanent judges and one deputy judge for the entire country, a number that human rights groups and lawyers' associations widely viewed as inadequate. A government program to train 10 new judges continued throughout the year; they were expected to assume their duties in 2008.

Other problems the judiciary faced included financial dependency on the Ministry of Justice and Police (and hence the executive branch), lack of professional court managers and case management systems to oversee the courts' administrative functions, and lack of space. These obstacles caused a significant case backlog. The courts required a minimum of six months to process criminal cases, and most civil cases were resolved approximately three to four years after being heard by the courts.

The judicial system consisted of three lower courts, two specialized courts, and the Court of Justice as an appeals court. Although the constitution calls for the establishment of an independent constitutional court, the National Assembly had not created such a court due to concerns that it would have the authority to overturn government decisions.

Trial Procedures.—The law provides for the right to a fair, public trial in which defendants have the right to counsel, and the judiciary generally enforced this right. Defendants enjoy a presumption of innocence and have the right to appeal their verdict. Defendants' lawyers can question witnesses. There is no jury system. The courts assign private sector lawyers to defend indigent detainees, paying the costs from public funds. However, court-assigned lawyers, of whom there were 14, generally appeared at the trial without prior consultation with defendants. According to Moiwana '86, these lawyers often did not appear at all. To remedy this situation for juveniles, a 1-year NGO-funded pilot project was launched in July giving juvenile detainees who could not afford a lawyer immediate access to counsel upon arrest.

Military personnel generally are not subject to civilian criminal law. A member of the armed forces accused of a crime immediately comes under military jurisdiction, and military police are responsible for all such investigations. Military prosecutions are directed by an officer on the public prosecutor's staff and take place in separate courts before two military judges and one civilian judge. Due to the shortage of judges, military and civilian judges are selected from the same pool of nine permanent judges and one deputy judge by the Court of Justice, which makes assignments to specific cases. A mechanism exists to prevent conflicts of interest. The military courts follow the same rules of procedure as the civil courts. There is no appeal from the military to the civil system.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. The law requires warrants, which are issued by quasi-judicial officers who supervise criminal investigations, for searches. The police obtained them in the great majority of investigations.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

Some media members continued to practice occasional self-censorship, due to a history of intimidation and reprisals by certain elements of the former military leadership and in response to pressure by senior government officials and other important community leaders on journalists publishing negative or unflattering stories about the administration.

In April the then-vice president was reported to have engaged in press censorship after an incident in which a television program suggesting that the minister of agriculture was corrupt was interrupted abruptly. At least one newspaper raised the issue of the sensitivity of reporting on ethnic politics, suggesting that there was a reluctance to tackle the subject for fear of polarizing the country's multi-ethnic society.

After a local newspaper, *De West*, voluntarily retracted an article alleging corruption at the Foreign Exchange Commission, the agency took the matter to court demanding a second retraction be published in another daily newspaper, *De Ware Tijd*, which has the largest circulation in the country. In December the judge ruled in favor of the plaintiff, but *De Ware Tijd* refused to publish the retraction, stating it was a disinterested third party in this matter. Journalists voiced their concern

about the precedent the ruling could set, and *De West* filed an appeal against the verdict.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community numbered approximately 150.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

Although the law does not address exile, it was not used in practice.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. Under special circumstances, persons may be granted refugee status, and in practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. During the year the government did not grant asylum or refugee status.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Elections during the year marked the third such peaceful electoral transition; however, in its 30 years of independence, the country has experienced 2 military coups, 7 years of military rule, and 1 instance in which massive public demonstrations forced an agreement to hold elections a year early.

Elections and Political Participation.—The constitution provides for direct election by secret ballot of the 51-member National Assembly every 5 years. The National Assembly in turn elects the president by a two-thirds majority vote. If the legislature is unable to do so, the constitution provides that the United People's Assembly composed of members of parliament and elected regional and local officials shall elect the president. After generally free and fair elections in May, the United People's Assembly reelected incumbent Ronald Venetiaan as president in August.

Historical and cultural factors, such as early, arranged marriages for Hindu and Muslim women, impeded equal participation by women in leadership positions in government and political parties. In the past participation by women in politics (and other fields) generally was considered inappropriate. While women made limited gains in attaining political power in recent years, political circles remained under the influence of traditional male-dominated groups, and women were disadvantaged in seeking high public office. There were 13 women in the 51-seat National Assembly, and the cabinet included 2 women. In 2001 the first woman judge joined the Court of Justice. In August two women were appointed police commissioners.

Several factors traditionally limited the participation of indigenous Amerindians and Maroons—descendants of escaped slaves who fled to the interior to avoid recapture—in the political process. Most of the country's political activity takes place in the capital, Paramaribo, and in a narrow belt running east and west of it along the coast. The Maroons and Amerindians were concentrated in remote areas in the interior and therefore had limited access to, and influence on, the political process. There were three Maroon and one Amerindian political parties, and voters elected eight Maroons and one Amerindian to the National Assembly. The opportunity for Maroons to participate in the political process increased when the three Maroon parties formed a coalition for the May election and became part of the governing coalition with three Maroons in the cabinet.

Government Corruption and Transparency.—There was a widespread perception of corruption in the executive branch of the government, and corruption of government officials remained a problem. Shortage of personnel continued to hamper police investigations of fraud cases.

In May authorities brought two policemen and one prison officer to court for smuggling cocaine to prisoners in Paramaribo's Santo Boma prison. The three officials were all dishonorably discharged; the prison official was sentenced to 18 months in prison. In June 3 tax officials defrauded the government of \$50 thousand (SRD 140 thousand) by means of false restitution reports; unspecified internal measures were taken against them.

In May police investigated allegations of corruption at the Ministry of Public Works and in June allegations of corruption at the Ministry of Agriculture, Animal Husbandry, and Fisheries. The National Assembly lifted the ministerial immunity of former Minister of Public Works Dewanand Balesar after fraud, forgery, and extortion allegations were raised against him. At year's end the former minister remained free while police continued their preliminary investigation. The prosecution expected to start his trial in March 2006, while the other 16 suspects in this case were scheduled to go to trial in January 2006. They remained free but restricted to Paramaribo and the neighboring district of Wanica. The director of fisheries, whom the police were investigating for extortion, also was not arrested. In July police arrested a Ministry of Interior official who embezzled thousands of dollars through a pension benefits scheme.

Former Finance and Natural Resources Minister Errol Alibux, successfully prosecuted for embezzlement in 2004, awaited a decision on his challenge to the Suriname Court of Justice verdict. Alibux, who was released in August 2004 after serving eight months of his sentence, contested the 1-year prison term and 3-year bar from public office verdict at the Inter-American Commission on Human Rights (IACHR), on the grounds that since the Court of Justice is the highest court in the country, he had no venue for appeal as required by the American Convention on Human Rights.

Although the law provides for public access to government information, such access was limited in practice for both citizens and noncitizens, including foreign media. While almost every ministry has an information service, onerous bureaucratic hurdles made obtaining information very difficult.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of independent domestic human rights groups, such as the Organization for Justice and Peace, the Know Your Rights Foundation, and Moiwana '86, generally operated without government restriction, investigating and publishing their findings on human rights cases. However, government officials often were not cooperative or responsive to their views. No international human rights groups operated in the country during the year.

A parliamentary commission on human rights continued operating throughout the year, but its effectiveness was hampered by resource constraints.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race and ethnicity but does not address discrimination based on disability, language, or social status. While the law does not specifically prohibit gender discrimination, it provides for protection of women's rights to equal access to education, employment, and property. In practice several societal groups, including women, Maroons, Amerindians, persons with HIV/AIDS, and homosexuals, suffered various forms of discrimination.

Women.—Violence against women was a common problem, which the government had not addressed specifically. The law does not differentiate between domestic violence and other forms of assault. Police received 662 reports of domestic violence, the majority of which were for assault and intimidation. The NGO Stop Violence against Women reported 215 new victims during the year and stated that the police improved their attitude toward victims of domestic violence and maintained a good working relationship with NGOs. An NGO-driven network including police units worked to combat domestic violence. Public officials spoke out against domestic violence, receiving wide media coverage. There were victims' rooms in police stations in Paramaribo, and police units were trained on dealing with victims and perpetrators of sexual crimes and domestic violence.

The law prohibits rape but does not address spousal rape. The maximum penalty for rape or forcible sexual assault is a 12-year sentence. The only statistics available covered sex crimes in general: 166 new cases opened against 212 defendants; 134 suspects were under preliminary investigation but not yet formally charged at year's end.

Although the law prohibits sexual exploitation, including prostitution, in practice prostitution generally was tolerated. Concerns about the link between prostitution and trafficking in persons resulted in police raids on commercial sex locations and

arrests of several prostitutes. Poverty continued to put young women at risk of becoming prostitutes. The presence of large groups of illegal miners in the gold mining sector in the interior drew many young Maroon women and girls into prostitution. Police allowed many brothels to operate, and officials asserted that they made random checks on the brothels twice a month to see if women were being abused, held against their will, or having their passports retained by brothel owners to ensure fulfillment of work contract obligations (see section 5, Trafficking).

Women have the legal right to equal access to education, employment, and property; nevertheless, social pressures and customs, especially in rural areas, inhibited their full exercise of these rights, particularly with respect to marriage and inheritance. Social pressures on families to have their daughters married at or near the legal age of marital consent frequently interfered with the girls' education and resulted in the direct passage of all property the women would have inherited from their parents to their husband and parents-in-law in accordance with these customs.

Women experienced economic discrimination in access to employment and in rates of pay for the same or substantially similar work. According to a report, more than 60 percent of women worked in traditionally female administrative or secretarial jobs. The government did not make specific efforts to combat economic discrimination.

The National Women's Movement, the most active women's rights NGO, continued assisting women with launching small home-based businesses, such as sewing and growing vegetables, and provided general legal help. The Women's Business Group advocated business opportunities for women, while the Women's Parliament advocated opportunities in the public sector. Stop Violence against Women provided assistance to victims of domestic violence, including legal help with dissolving an abusive marriage. The Maxi Linder Foundation worked with persons in prostitution, including women and children who were victims of trafficking, and conducted outreach and informational sessions to inform victims of human rights abuses about their rights. Resource constraints continued to limit the effectiveness of these groups.

Children.—The government allocated limited resources to ensure safeguards for the human rights and welfare of children.

Schooling is compulsory until 12 years of age, although some school-age children, particularly in the interior, did not have access to education due to a lack of transportation, building facilities, or teachers. Although school attendance was free through university level, most public schools imposed a nominal enrollment fee, ranging from \$10 to \$35 (SRD 25 to SRD 100) a year to cover costs. Approximately 85 percent of children in cities attended school; however, as few as 50 percent of children in the interior attended school. Most children attended school through middle school level (age 16). There was no legal difference in the treatment of girls and boys in education or health care services, and in practice both were treated equally.

Government medical care for children was generally adequate, and vaccination for all children was obligatory. However, the government offered very limited mental health care. The NGO Bureau for Child Development provided mental health care for abused children. There was a home for HIV/AIDS orphans and abandoned children in Paramaribo.

While there was no societal pattern of abuse directed against children, some children were abused sexually and physically. Police received reports of 139 cases of sexual abuse of children and 59 cases of cruelty against children in the first half of the year, compared with 183 cases in all of 2004. The police Youth Affairs Office conducted three visits per week to different schools in the capital and the surrounding areas on a rotating schedule to provide outreach and raise awareness about child abuse and to solicit and investigate complaints. In August a leading newspaper published a series of articles aimed at raising awareness about child abuse, following the July arrest of an elementary school principal who had sexually molested and assaulted at least 23 boys between the ages of 6 and 12 during his 14 years in charge of the school. The school organized five counseling sessions for the victims and their parents with the assistance of the NGOs Stop Violence against Women and the Children's Foundation. Authorities scheduled the principal's trial for January 2006.

Various laws were used to prosecute perpetrators of sexual harassment, and several cases of sexual abuse against minors came to trial. The youth police reported more than 189 cases of sexual abuse against minors. Sentences averaged three years in prison. There were several orphanages and one privately funded shelter for sexually abused children in the capital, where approximately 49 percent of the country's population was concentrated.

While the legal age of sexual consent is 14, it was not enforced effectively. The marriage law, revised in 2004, sets the age of marital consent at 15 for girls and

17 for boys, provided parents of the parties agree to the marriage. Parental permission to marry is required up to age 21. The law also mandates the presence of a Civil Registry official to register all marriages.

Trafficking and commercial sexual exploitation of minors remained a problem (see section 5, Trafficking). The Salvation Army and a Catholic charitable organization provided shelter for homeless boys.

Children faced increasing economic pressure to discontinue their education to seek employment, particularly in the interior of the country, and child labor remained a problem in the informal sector (see section 6.d.).

In November the Ministry of Social Affairs and Housing and the Child Rights Bureau organized a youth discussion group for participants from Paramaribo and other districts.

The UN Children's Fund continued providing funding for a government project to assist children. The government established a national steering committee, consisting of the Ministries of Health, Education, Regional Affairs, Planning and Development Cooperation, and Labor, to direct the project.

Trafficking in Persons.—No comprehensive trafficking in persons law exists, but statutes that apply only to women and children prohibit "white slavery," migrant smuggling, and pimping. In practice these statutes rarely were enforced, and trafficking in persons, including for sexual exploitation, remained a problem. Criminal law prohibits solicitation and brothel operation, but the law was not enforced. The penalty for sexual exploitation, a criminal felony, is a 5-year sentence; labor exploitation is covered only by labor law and is a misdemeanor carrying a 3- to 6-month sentence. The maximum penalty for rape or forcible sexual assault is a 12-year sentence, and a person convicted of sexual exploitation that involved rape would receive the longer of the 2 sentences.

The government's Antitrafficking Commission had primary responsibility for combating trafficking; the commission included representatives from law enforcement (attorney general's office, Police Force, and the Military Police, which handles immigration), the Ministries of Justice and Police, Labor, Home Affairs, and Foreign Affairs, and, at the beginning of the year, the NGO Maxi Linder Foundation. The commission met monthly to assess the government's progress in combating trafficking in persons and coordinate new action steps. Police cooperated with Curacao, Guyanese, and Dutch law enforcement on three trafficking in persons and child smuggling cases.

The extent of trafficking of women and girls to, through, and within the country for prostitution was difficult to estimate. Several commercial sex trade establishments reportedly recruited Brazilian, Colombian, Dominican, Guyanese, and Chinese women for prostitution. Victims in commercial sex trade transited the country and were routed to the Netherlands or other European destinations to work in brothels. There also were reports of underage Hindustani and Maroon girls and Javanese and Hindustani boys trafficked within the country for prostitution by recruiters or caretakers.

The police had informal agreements with many brothel owners allowing them to proceed with their business. However, police conducted random checks to ensure that women were not mistreated, that no minors were present, and that owners did not keep the women's airline tickets and passports. During the year there were fewer than 10 reports of brothel owners retaining passports and airline tickets to uphold contract obligations. In such cases the police assisted these women to return to their country of origin at their own expense.

In July a court sentenced Deputy District Commissioner of Nieuw Nickerie Hesdy Veira to two years' imprisonment for trafficking young Guyanese women into the country to work as prostitutes in a brothel he owned. In December police arrested Henk Kunath, owner of Paramaribo's largest brothel, Diamond, for trafficking a Brazilian woman to work in his brothel. Kunath, a Dutch national permanently residing in the country, was previously arrested and sentenced for trafficking and human smuggling in Brazil. Kunath spent several weeks in custody but was later released pending the conclusion of investigation. Authorities expected to try Kunath in early 2006.

The public prosecutor's office and the police established a registry of all brothels and their employees by nationality. The police continued operating a telephone hot line to handle all cases from the commercial sex industry.

The Special Antitrafficking Police Unit conducted limited investigations and raids throughout the year. Raids on brothels and informal commercial sex locations resulted in the deportation of foreign women in prostitution for immigration violations and continuing investigations into several cases of potential trafficking of victims of Guyanese, Dominican, Haitian, and Chinese nationalities. An NGO receiving gov-

ernment funding, the Maxi Linder Foundation, continued working with trafficking victims, providing counseling and rehabilitative training.

There were reports that government officials, including consular affairs, customs, and immigration officials, facilitated trafficking in persons by allowing individuals who were not bona fide visitors for a legitimate purpose to enter the country.

In April government and NGO participants received three days of training on investigating and prosecuting human trafficking, including trafficking victim witness interviewing techniques. In November the government organized two train-the-trainer workshops, one for immigration and one for police officials, in cooperation with the International Organization for Migration.

Persons with Disabilities.—There were no laws prohibiting discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of state services. There were no laws, provisions, or programs to ensure access to buildings for persons with disabilities. Some training programs were provided for the blind and others with disabilities. In general persons with disabilities suffered from discrimination when applying for jobs and services. A Ministry of Social Affairs working group remained responsible for protecting the rights of persons with disabilities, but made no progress during the year.

National/Racial/Ethnic Minorities.—The law prohibits discrimination on the basis of race or ethnicity, and no discrimination complaints were filed during the year. Nonetheless, Maroons, who numbered approximately 15 percent of the population, generally continued to be disadvantaged in the areas of education, employment, and government services. Most Maroons lived in the interior, where limited infrastructure narrowed their access to educational and professional opportunities and health and social services. Maroons in Paramaribo suffered from negative social stereotypes.

Unlike the previous year, there were no new protests by residents of neighboring Maroon villages against gold mining activities by the Gross Rosebel Goldmines Company in the interior. Some forms of discrimination that affected indigenous Amerindians also extended to Maroons (see section 5, Indigenous People).

Indigenous People.—The law affords no special protection for, or recognition of, indigenous people. Most Amerindians (approximately 3 percent of the population) suffered a number of disadvantages and had only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. The country's political life, educational opportunities, and jobs were concentrated in the capital and its environs, while the majority of Amerindians (as well as Maroons) lived in the interior, where government services were largely unavailable.

Official and informal meetings between the parties involved in implementing the 2001 Lelydorp Accord continued without substantive results. No former Jungle Commando members were integrated into the Police Force, but some obtained jobs with the government.

The Amerindian (and Maroon) populations continued to face problems with illegal and uncontrolled logging and mining.

Organizations representing Maroon and Amerindian communities complained that small-scale mining operations, mainly by illegal gold miners, dug trenches that cut residents off from their agricultural land and threatened to drive them away from their traditional settlements. Mercury runoff from these operations also contaminated and threatened traditional food source areas.

In 2000 the Vereniging van Saramakaanse Gezagdragers, an organization representing 12 Saramaccaner clans with authority over 60 villages in the Upper Suriname River area, filed a petition with the IACHR claiming that lumber operations, mostly by Chinese-owned concessions, threatened their way of life. The IACHR heard the case during the year, and a decision was expected at the end of January 2006.

Human rights and environmental groups continued monitoring the joint venture activities of SURALCO and BHP Billiton, which were exploring the possibility of mining bauxite and generating hydropower in the western part of the country.

Maroon and Amerindian groups continued to cooperate with each other in an effort to exercise their rights more effectively. NGOs such as Moiwana '86 continued working to promote the rights of indigenous people.

Other Societal Abuses and Discrimination.—Although the law prohibits discrimination on the basis of sexual orientation, there were reports that homosexuals continued to suffer from employment discrimination. Persons with HIV/AIDS continued to experience societal discrimination in employment and medical services. Hospital workers and other health professionals were reluctant to treat infected persons. Barbers and taxi drivers declined to provide services to children from a home for HIV-infected children.

The steering committee established in 2004 by the Ministry of Health, consisting of officials from the Ministries of Health, Social Affairs, Finance, Education, and Planning and Development Cooperation, continued working on the National Strategic Plan for HIV/AIDS along with a newly revamped National AIDS Program. An interagency working group, consisting of representatives from NGOs, government, and civil society, was tasked with reducing stigmatization of HIV/AIDS victims. In June the then minister of labor spoke out against HIV/AIDS-based employment discrimination during a workshop organized by the International Labor Organization (ILO) and trade unions. In December the first voluntary HIV counseling and testing site opened in Albina, in the eastern part of the country, and the government launched a successful know-your-status campaign to encourage voluntary testing.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and the workers did so in practice. Nearly 60 percent of the work force was organized into unions, and most unions belonged to one of the country's six major labor federations. Unions were independent of the government but played an active role in politics.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government generally protected this right in practice. Collective bargaining agreements covered approximately 50 percent of the labor force.

The law provides for the right to strike, and workers in both public and private sectors exercised this right in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—While the law prohibits all forms of forced or compulsory labor, including by children, child prostitution continued (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age for employment at 14 years and restricts working hours for minors to day shifts but does not specify the length of such day shifts. Children younger than 18 are prohibited from doing hazardous work, defined as work dangerous to their life, health, and decency; those younger than 14 are only allowed to work in a family or special vocational setting or for educational purpose. However, the Ministry of Labor and the police enforced this law sporadically, and child labor remained a problem in the informal sector, especially in the districts of Nickerie and Saramacca in the west.

Children under 14 worked as street vendors, newspaper sellers, rice and lumber mill workers, packers for traders, or shop assistants. Working hours for youths were not limited in comparison with the regular work force. Employers in these sectors did not guarantee work safety, and children often worked barefoot and without protective gloves, with no access to medical care. Although government figures reported that only 2 percent of children were economically active, a 2002 survey conducted by the Institute for Training and Research found that 50 percent of children between the ages of 4 and 14 were economically active, working mainly in the informal sector. The worst forms of child labor, such as prostitution, remained a problem; there were reports of commercial sexual exploitation of children and teenagers by caretakers and older recruiters (see section 5).

The Ministry of Labor's Department of Labor Inspection, with approximately 54 inspectors, has responsibility to implement and enforce labor laws, including those pertaining to the worst forms of child labor. Inspectors performed approximately 10 inspections per day, concentrated in the greater capital area. The government did not investigate exploitative child labor cases outside urban areas. An estimated 510 inspections were performed during the year, with none resulting in penalties or convictions for child labor. As in the past, labor inspectors were not authorized to conduct inspections in the informal sector, where child labor remained a problem, as responsibility for controlling the informal sector lies with police.

The police continued raids on known child labor locations in Paramaribo, including street spots where underage vendors worked, as well as nightclubs, casinos, and brothels, to combat the problem.

Suriname Labor College and other unions subsidized by the Ministry of Labor conducted campaigns aimed at eliminating child labor in its worst forms in various districts of the country, including Nickerie, Paramaribo, and Marowijne; the campaign targeted public and private sector officials, school teachers, students, and caregivers. A government-subsidized NGO, Welzijn Institute Nickerie, operated a day center in Nickerie, training school dropouts in gardening work and providing

employment assistance. ILO officials visited the country in February to train labor inspectors and in May to train officials from the Suriname Labor College.

e. Acceptable Conditions of Work.—There was no legislation providing for a minimum wage. Including a cost of living allowance, the lowest wage for civil servants was approximately \$190 (SRD 512) per month, which did not provide a decent standard of living for a worker and family. Government employees, who constituted approximately 50 percent of the work force of 100 thousand persons, frequently supplemented their salaries with second or third jobs, often in the informal sector. The president and the Council of Ministers set and approved civil service wage increases.

Work in excess of 45 hours per week on a regular basis required special government permission, which was granted routinely. Such overtime work earned premium pay. The law prohibits excessive overtime and requires a 24-hour rest period per week.

A 10- to 12-member inspectorate in the Occupational Health and Safety Division of the Ministry of Labor was responsible for enforcing occupational safety and health regulations. Resource constraints and lack of trained personnel precluded the division from making regular inspections. There was no law authorizing workers to refuse to work in circumstances they deem unsafe; they must appeal to the inspectorate to declare the workplace situation unsafe.

TRINIDAD AND TOBAGO

Trinidad and Tobago is a parliamentary democracy governed by a prime minister and a bicameral legislature. The population was approximately 1.3 million. Tobago has a House of Assembly that has some administrative autonomy over local matters on that island. In the 2002 elections, which observers considered generally free and fair, Prime Minister Patrick Manning's People's National Movement (PNM) secured a 20 to 16 seat victory over the United National Congress (UNC). The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in some areas:

- police killings during apprehension and deaths in custody
- police and guard abuse of detainees and prisoners
- poor prison conditions
- violence against women
- inadequate services for vulnerable children
- lack of opportunities for persons with disabilities

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, 13 persons died during the year while in police custody or at the hands of police.

On May 6, a policeman shot Mervyn Caton during communal celebrations at Point Fortin; he died in the hospital on May 19. The case was scheduled for a court hearing early in 2006. On May 27, an off-duty policeman shot and killed an unidentified man who had allegedly pointed his gun at the policeman during an attempted robbery of a taxi driver. This case was still under investigation by the police at year's end.

On October 11, police officers killed Jameel Alexander and Anthony Ellis during an exchange of gunfire in Port of Spain; on October 29, police officers killed Calvin Campbell, whom they were attempting to arrest on charges of kidnapping, robbery, and arms possession; and on November 23, police reportedly killed accused murderer Damian Gould, who had escaped from a police holding cell in Scarborough, Tobago. At year's end all three cases were under investigation by the complaints division of the police service.

The number of killings of innocent citizens at the hands of gangs and individual criminals rose sharply: there were 386 such killings, surpassing the 259 citizens killed in 2004.

There was no definitive resolution of the investigations into any of the persons killed by police during 2004, including Galene Bonadie and Noel Stanley.

In April and July, the director of public prosecutions reiterated his request for a police report of the circumstances surrounding the 2001 death of Marcel McLeod, allegedly killed in a shootout with police. By year's end, however, the report had not been produced.

In August authorities ordered a retrial in the case of a prison officer charged with the 2001 death of prisoner Anton Cooper, but it had not taken place by year's end.

b. Disappearance.—While there were no reports of politically motivated disappearances, there was a substantial increase in criminal kidnappings, including kidnappings for ransom. During the year 235 citizens were kidnapped, including 54 for ransom, compared with 177 and 28 respectively, during 2004.

A growing number of citizens and some commentators believed that corrupt police officers were involved in kidnappings. In August authorities arrested two members of the special reserve police for their alleged role in a kidnapping characterized by the media as “high-profile” because the two victims were sons of a well-known businessman and one of the police officers was himself a member of a prominent family. Authorities had the two officers under investigation at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution and law prohibit such practices, there were credible reports of police officers and prison guards mistreating individuals under arrest or in detention.

According to prison authorities, there were two cases before the courts at year's end in which prisoners charged prison guards with assault and battery. During the year authorities suspended 12 prison guards and pressed charges against 2 of them for poor conduct on the job, including possession of narcotics and provision of cell phones to inmates, reportedly under threat of violence. According to prison authorities, out of a prison guard complement of 2,050, 36 guards were under suspension and investigation for behavior incompatible with service as a law enforcement officer.

At year's end investigations and legal proceedings continued in the 2004 case of Camille Mitchell, who claimed that she suffered a miscarriage as a result of police mistreatment during a search of her home.

A court dismissed the 2004 case in which a Golden Grove Remand Center inmate sued five officers and the Attorney General's Office, claiming that prison guards beat him with a hose and sexually assaulted him with a wooden baton. The court determined that the inmate's allegations lacked substance.

A 2003 lawsuit, in which Danesh Mahabir charged police officers with assault, battery, and unlawful detention, continued in the courts at year's end.

Prison and Detention Center Conditions.—Conditions in the prison system's eight facilities were upgraded but continued to be harsh. A 2002 government report on the prison service and the broader criminal justice system recommended transforming the system to focus on rehabilitation. To fulfill this goal, the government initially focused on overcrowding and unsanitary conditions at the Port of Spain prison. According to the newly appointed prison service commissioner, the number of prisoners at this facility, originally designed to accommodate 250 inmates, was reduced from 900 in 2004 to 650 at year's end. The number of prisoners in each 10- by 10-foot cell also was reduced from a maximum of 14 or more to a maximum of 5. The most recently built maximum-security prison in Arouca helped relieve the overcrowding at the Port of Spain prison. Other improvements included repainting, better lighting, improved toilet facilities, and more hygienic food service arrangements.

Significant staff shortages compelled the prison service to decrease the “airing” time provided to prison inmates. This issue served as the basis of a complaint filed against the prison service by death row inmate Alladin Mohammed, which was still pending at year's end.

Pretrial detainees were held separately from convicted prisoners, usually in the remand section of the same facilities as convicted prisoners. However, convicted prisoners often were held in the remand section until they exhausted their appeals.

The government permitted prison visits by independent human rights observers, but the Ministry of National Security must approve each visit. Following prison visits during the year, members of the Criminal Bar Association first threatened legal action if the government did not take steps to improve prison conditions, and then filed two constitutional motions in the high court in an effort to apply greater pressure upon the prison service. Those motions were pending at year's end.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—The Ministry of National Security oversees the police service, the prison service, and the defense force. The police serv-

ice maintains internal security, while the defense force is responsible for external security but also has certain domestic security responsibilities. An independent body, the Police Service Commission, makes hiring and firing decisions in the police service, and the ministry has little direct influence over changes in senior positions.

The national police force comprises 9 countrywide divisions, including 17 specialized branches, and has approximately 7 thousand members. The Police Service Commission, in consultation with the prime minister, appoints a commissioner of police to oversee the police force. Municipal police under the jurisdiction of 14 regional administrative bodies supplement the national police force. The Special Anticrime Unit, composed of both police and defense force personnel, combats violent crime—including kidnappings for ransom—and carries out other security operations.

Police corruption continued to be a problem. On a number of occasions during the year, the authorities apprehended members of the police in connection with illegal drugs, firearms possession, and other illicit activities. The Police Complaints Authority receives complaints about the conduct of police officers for transmittal to the Complaints Division of the Police Service where uniformed officers investigate them. The authority simply monitors the division's investigations and its disciplinary measures. However, Police Service Commission restrictions limit the division's ability to dismiss police officers. The facts that the Police Complaints Authority has no power to investigate complaints and that those investigating complaints against the police are themselves police officers eroded the public's confidence in the entire police complaints process.

Arrest and Detention.—A police officer may arrest a person either based on a warrant issued or authorized by a magistrate, or without a warrant when the officer witnesses the commission of an alleged offense. Detainees, as well as those summoned to appear before a magistrate, must appear in court within 48 hours. In the case of more serious offenses, the magistrate either commits the accused to prison on remand or allows the accused to post bail, pending a preliminary inquiry. Detainees were granted prompt access to a lawyer and to family members.

There is a functioning bail system, although persons charged with murder, treason, piracy, and hijacking are ineligible. Where bail is refused, magistrates advise the accused of their right to an attorney and, with few exceptions, allow them access to an attorney, once they are in custody and prior to any interrogation. In December parliament passed a bill that precludes the granting of bail to any person charged with kidnapping for ransom for a period of 60 days following the charge, as well as to individuals who have already been convicted twice of violent crimes.

The minister of national security may authorize preventive detention in order to preclude actions prejudicial to public safety, public order, or national defense, in which case the minister must state the grounds for the detention. There were no reports that the authorities abused this power.

There were no reports of political detainees.

Lengthy pretrial detention resulting from heavy court backlogs and an inefficient judicial system continued to be a problem. Out of a prison population of 3,730, 1,573 inmates were waiting to be tried at year's end. While the law requires waiting times for magistrate's court hearings to be no longer than 10 days, criminal indictees often waited months, if not years, for their trial dates in the high court.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The judiciary provided citizens with a fair judicial process, albeit at a slow pace due to backlogs and inefficiencies.

The judiciary is divided into the Supreme Court of Judicature and the Magistracy. The Supreme Court is composed of the high court and a court of appeal. The Magistracy includes the summary courts and the petty civil courts. Civil matters can be heard by both the high court and petty civil court, with the petty civil court authorized to hear only cases involving damages of up to \$2,500 (TT\$15 thousand).

Trial Procedures.—Magistrates try both minor and more serious offenses, but in the case of more serious offenses, the magistrate must conduct a preliminary inquiry. Trials are public, and juries are used in the high court. Defendants have the right to be present, are presumed innocent until proven guilty, and have the right to appeal. While all defendants have the right to consult with an attorney in a timely manner, an attorney is provided at public expense to defendants facing serious criminal charges, and the law requires the provision of an attorney to a person accused of murder. Although the courts may appoint attorneys for indigent persons charged with indictable offenses (serious crimes), an indigent person may refuse to accept an assigned attorney for cause and may obtain a replacement. Defendants can confront or question witnesses against them, can present witnesses and evi-

dence on their own behalf, and have access to government-held evidence relevant to their cases.

Both civil and criminal appeals may be filed with the local court of appeal and ultimately with the Privy Council in London.

Although the regional Caribbean Court of Justice (CCJ), intended to be a final court of appeal for member states, was inaugurated in April, the government had not passed legislation for it to play this role. The CCJ has a separate original jurisdiction whereby it interprets and applies, for all 15 member states of the Caribbean Community (CARICOM), the treaty which established CARICOM as well as the agreement creating the Caribbean Single Market and Economy.

In a September 16 speech marking the opening of the annual law term, Chief Justice Satnarine Sharma described progress made during the year in modernizing some dilapidated court buildings and measures to speed up trials, such as replacement of antiquated court reporting systems with new audio-digital recording equipment as well as more efficient case management procedures. However, he also criticized declining behavioral standards and ethics on the part of certain members of the bar, citing a case in which he said the prosecuting attorney cross-examined a witness as brutally as if she were one of the accused murderers in the dock.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In May the telecommunications authority disseminated for public comment a proposed broadcasting code of conduct, in what it claimed to be an effort to moderate the interracial animosity which characterized some of the country's talk shows. However, media and broadcasting professionals and their associations criticized the plan so harshly as an infringement on the right to free speech that the authority withdrew the proposed code for possible redrafting at a later time.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

The government limits the number of foreign missionaries allowed to enter the country to 30 per denomination. Missionaries must meet standard requirements for an entry visa and must represent a registered religious group. They may not remain in the country for more than three years at a time, but may re-enter after a year's absence.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and it was not used.

In 2000 the government acceded to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government had not passed legislation to implement its obligations under the convention. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government placed asylum seekers in the care of the Living Water Community, a local Catholic social services agency, while their cases were reviewed by UNHCR and final resolution reached. Pending parliament's approval of legislation implementing the UN convention and its protocol, the Ministry of National Security's immigration division handled all requests for asylum on a case-by-case basis.

The government did not provide temporary protection to persons who may not qualify as refugees, but the Living Water Community provided such persons with needed social services.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The most recent national election was held in 2002, and observers found it to be generally free and fair. The two major political parties are the PNM, which is primarily but not exclusively Afro-Trinidadian, and the UNC, which is primarily but not exclusively Indo-Trinidadian. A majority of voters in the 2002 national election supported the PNM, which retained control of the government.

There were 18 women in the 67-seat legislature, excluding the female president of the Senate; 9 women in the cabinet; and 10 female judges on the high court and the court of appeal. Both major political parties reached out to voters from relatively small ethnic minorities, such as the Chinese, Syrian, Lebanese, and European-origin communities, and members of these groups held important positions in government. There were six members of these minorities in the legislature and two members of minorities in the cabinet.

Government Corruption and Transparency.—There was a widespread and growing public perception of corruption in the country.

In April there were reports that Minister of Works and Transport and PNM Party Chairman Franklyn Khan and Minister of Energy and Energy Industries Eric Williams had received bribes from Dansam Dhansook, a local PNM councilman and businessman. While Williams maintained his innocence, Khan resigned his cabinet post in May. In November authorities arrested Khan and charged him with six counts of misbehavior in public office for allegedly accepting \$20 thousand (TT\$120 thousand) for providing a contract to Dhansook's firm for seismic services. In December Khan resigned his PNM party chairmanship, and the case against him was still in the courts, pending further investigation. At year's end authorities continued to investigate the allegations against Williams.

The courts continued to hear a case that implicated the most senior members of the 1995–2001 UNC government in embezzlement and bid-rigging on the Piarco Airport expansion project. In May authorities arrested former UNC Prime Minister Basdeo Panday and charged him with corruption for accepting a bribe that allegedly led the Panday government to favor a contractor on the Piarco project. Panday, UNC party chairman and leader of the opposition, spent some days in jail before being released on bail. After a brief court hearing in December, the matter was adjourned until 2006.

A committee of experts continued to work on reform of the public procurement regime that would enhance public accountability and reduce opportunities for corruption by government officials.

The Integrity in Public Life Act mandates that public officials disclose their assets, income, and liabilities to an integrity commission. However, a growing number of officials and candidates for public office were reluctant to comply with this provision, claiming that such disclosures would make them and their families a target of the increasing number of criminals engaged in kidnappings for ransom. Panday continued to contest a 2002 arraignment under this act for allegedly failing to declare a London bank account during his tenure as prime minister. After Panday tried unsuccessfully through the entire court system to have the charge against him dismissed, the case was scheduled for its first hearing in early 2006.

In December the Integrity Commission reportedly exempted judges from the disclosure provisions, which led eight independent members of the Senate, who are appointed by the president, to argue that they too should be exempted. At year's end the Integrity Commission formally requested the high court to rule on the constitutionality of exempting judges from the disclosure provisions of the Integrity in Public Life Act.

The Freedom of Information Act provides for public access to government documents, upon application. When critics charged that a growing number of public bodies were exempted from the act's coverage, the government countered that the exemptions were intended to avoid frivolous requests and searches for information.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating human rights cases and publishing their findings. Government officials generally were cooperative and responsive to their views.

The ombudsman investigates citizens' complaints concerning the administrative decisions of government agencies. Where there is evidence of a breach of duty, misconduct, or criminal offense, the ombudsman may refer the matter to the authority competent to take appropriate remedial action. The ombudsman has a quasi-autonomous status within the government and publishes a comprehensive annual report. In 2004 the ombudsman resolved 954 complaints, received 1,012 new complaints, and continued investigating 2,664 complaints carried over from previous years.

In 1999 the government withdrew from the American Convention on Human Rights. The convention states that such an action does not release a government from its obligations under the convention with respect to acts taken prior to the effective date of denunciation. In February and March the Inter-American Court of Human Rights issued rulings on cases predating the government's withdrawal; by year's end the government had not provided any official or public reaction to the rulings.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The government generally respected in practice the constitutional provisions for fundamental human rights and freedoms for all without discrimination based on race, origin, color, religion, or gender.

Women.—Many community leaders asserted that abuse of women, particularly in the form of domestic violence, continued to be a significant problem. The law provides for protection orders separating the perpetrators of domestic violence, including abusive spouses, from their victims, as well as for penalties that include fines and imprisonment. While reliable national statistics were not available, women's groups estimated that from 20 to 25 percent of all women suffered abuse. Increased media attention to domestic violence resulted in a clear shift in public opinion from past views that had held that abuse of women in the home was a private matter.

NGOs charged that police enforcement of the law often was lax. According to both the government and NGOs, enforcement was weakened following the 1996 decentralization of the community policing unit specially trained to handle crimes against women. The Division of Gender Affairs (DGA) in the Ministry of Community Development, Culture, and Gender Affairs operated a 24-hour hot line for victims of rape, spousal abuse and other violence against women, referring callers to 8 shelters for battered women, a rape crisis center, counseling services, support groups, and other assistance.

Although rape, including spousal rape, is illegal and punishable by life imprisonment, the courts often handed down considerably shorter sentences. Both the government and NGOs estimated that many incidents of rape and other sexual crimes were unreported, partly due to perceived insensitivity on the part of the police.

Prostitution is illegal, and the authorities continued to monitor, investigate, and prosecute major operators believed to be engaged in soliciting for prostitution. In September authorities apprehended 28 women (26 Colombians and 2 Venezuelans) working in the capital's "red-light" district after they had entered the country illegally.

There are no laws specifically prohibiting sexual harassment. Although related statutes could be used to prosecute perpetrators of sexual harassment, and although some trade unions have incorporated antiharassment provisions in their contracts, both the government and NGOs suspected that many incidents of sexual harassment went unreported.

Women generally enjoyed the same legal rights as men, including employment, education, and inheritance rights. There are no laws or regulations requiring equal pay for equal work. While equal pay for men and women in public service is the rule rather than the exception, both the government and NGOs noted considerable disparities in pay between men and women in the private sector, particularly in agriculture.

The DGA had primary government responsibility for the protection of women's rights and women's advancement and sponsored income-generation workshops for unemployed single mothers, nontraditional skills training for women, and seminars for men on redefining masculinity.

Children.—A lack of funds and expanding social needs challenged the government's ability to carry out its commitment to protect the rights and welfare of children.

Education is free, compulsory, and universal up to the age of 12. The Ministry of Education estimated that 89 percent of school-age children attended school. Public education is available through the age of 20, and most students achieved the equivalent of a high school diploma. Some parts of the public school system failed to meet the needs of the school-age population due to overcrowding, substandard

physical facilities, and occasional classroom violence. The government committed resources to building new facilities and expanded access to free secondary education.

Medical care for children was widely available, with equal access for girls and boys.

The Domestic Violence Act provides protection for children abused at home. Abused children removed from the home were first assessed at a reception center for vulnerable children and then placed with relatives, government institutions, or nongovernmental organizations (NGOs). There was one reception center for vulnerable children. The Coalition against Domestic Violence operated Childline, a free and confidential telephone hot line, e-mail address, and Web site for at-risk or distressed children and young persons up to age 25. In 2004 Childline received 3,184 calls, 74 percent from girls and 26 percent from boys.

The law defines a child as under 18 years of age, outlaws corporal punishment for children, and prohibits sentencing a child to prison. Under the Marriage Act, the minimum legal age of marriage is 18 for both males and females. However, in practice the minimum legal age of marriage is determined by the distinct laws and attitudes of the various religious denominations: under the Muslim Marriage and Divorce Act, the minimum legal age of marriage is 16 for males and 12 for females, while under the Hindu Marriage Act and the Orisa Marriage Act, the minimum legal age of marriage is 18 for males and 16 for females.

Trafficking in Persons.—Although the law does not specifically prohibit trafficking in persons, there were no substantiated reports that persons were trafficked to, from, or within the country. In the event of trafficking, perpetrators can be prosecuted under several related laws, with penalties ranging from seven years' to life imprisonment. There were no prosecutions during the year.

The government had not designated a specific agency to combat trafficking in persons, and it sponsored no public awareness campaigns to address this issue during the year. However, in September the government cooperated with the International Organization for Migration in a seminar on trafficking in persons as a first step in promoting an understanding of trafficking in persons and assessing the extent of its prevalence in the country. Domestic NGOs were available to provide care and protection to trafficking victims.

Persons with Disabilities.—There are no statutes either prohibiting discrimination on the basis of disability or mandating equal access for the disabled to the political process, employment, education, transportation, housing, health-care, and other citizen services. In practice persons with disabilities faced discrimination and denial of opportunities in the form of architectural barriers, employer reluctance to make necessary accommodations that would enable otherwise qualified job candidates to work, an absence of support services to assist children with special needs to study, lowered expectations of the abilities of persons with disabilities, condescending attitudes, and disrespect. According to the NGO Disabled People's International (DPI), the parliament building as well as many polling stations were inaccessible to wheelchair users. A 116-day demonstration led by DPI against National Flour Mills, a major public-private enterprise, in 2003 for its refusal to consider job applicants with severe disabilities for employment, did not prompt a change in corporate policy but did raise media and public awareness of the exclusionary practices and unequal treatment suffered by persons with disabilities.

The national library is widely regarded by the disabled community as a model of barrier-free design and genuinely equal service to patrons with disabilities. In January the University of the West Indies inaugurated, at its St. Augustine campus, a "disability studies" program in its department of behavioral sciences. At year's end the university was adding a research capability to complement its classroom activity in this subject area. In February a court was notified that the Prison Service Commission promoted prison officer Graeme Lewis to prison supervisor retroactively. Lewis had been passed over repeatedly for promotion after being confined to a wheelchair when an escaped convict shot him in 1990.

National/Racial/Ethnic Minorities.—The country's diverse racial and ethnic groups lived together in what appeared on the surface to be peace and mutual respect. However, nonviolent racial tensions regularly emerged between Afro-Trinidadians and Indo-Trinidadians who each comprised approximately 40 percent of the population.

Indo-Trinidadians and persons of European, Middle Eastern, and Asian descent predominated in the private sector, and Indo-Trinidadians also predominated in agriculture. Afro-Trinidadians were employed heavily in the civil service, the police, and the defense force. Some Indo-Trinidadians asserted that they were not equally represented in senior civil service and protective service positions and among winners of state-sponsored housing grants and scholarships. In addition some Indo-

Trinidadians denounced the use of the Trinity Cross as the country's highest honor, claiming that its Christian motif was not representative of a multireligious society.

Indigenous People.—A very small group of people identified themselves as descendants of the country's original Amerindian population. The government effectively protected their civil and political rights, and they were not subject to discrimination.

Section 6. Worker Rights

a. The Right of Association.—The law provides that all workers, including those in state-owned enterprises, may form and join unions of their own choosing without prior authorization. The law also provides for the mandatory recognition of a trade union when it represents 51 percent or more of the workers in a specified bargaining unit. According to the National Trade Union Center, one of two umbrella organizations in the labor movement, some 22 to 24 percent of the workforce was organized in approximately 25 active unions. Most unions were independent of government or political party control, although the Sugar Workers' Union historically was allied with the UNC. A union also may bring a request for enforcement to the Industrial Court, which may order employers found guilty of antiunion activities to reinstate workers and pay compensation, or may impose other penalties including imprisonment.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, to participate in collective bargaining and to strike, and the government protected these rights in practice. However, employees in "essential services," such as police and teachers, do not have the right to strike. These employees negotiate with the government's chief personnel officer to resolve labor disputes. In May the International Labor Organization (ILO) criticized the government's definition of "essential services" as too broad and urged parliament to pass legislation to narrow the definition. There was no official response to the ILO request. There were no significant legal strikes during the year.

There are several export processing zones where the same labor laws are in effect as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor.—Although the law does not specifically prohibit forced or compulsory labor, including by children, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum legal age for workers is 12 years. Children from 12 to 14 years of age may work only in family businesses. Children under the age of 18 may work legally only during daylight hours, with the exception that 16- to 18-year-olds may work at night in sugar factories. The Ministry of Labor and Small and Micro Enterprise Development and the Social Services Delivery Unit in the Office of the Prime Minister are responsible for enforcing child labor provisions. However, enforcement was not consistent since there was no comprehensive government policy on child labor and no formal mechanisms for receiving, investigating, and resolving child labor complaints.

There was no organized exploitation of child labor. A 2004 study by the UN Children's Fund estimated that 2 percent of children from 5 to 14 years of age were engaged in paid work.

The government had not passed implementing legislation for ILO conventions 182 and 138, both of which it has ratified. The National Steering Committee on the Prevention and Elimination of Child Labor completed a comprehensive draft national policy on child labor, which awaited cabinet approval at year's end.

e. Acceptable Conditions of Work.—The national minimum wage is \$1.50 (TT\$9.00) per hour, which did not provide a decent standard of living for a worker and family. Actual wages varied considerably among industries, and most workers earned more than the minimum wage. The labor ministry enforced minimum wage regulations effectively.

The law establishes a 40-hour workweek, a daily period for lunch or rest, and premium pay for overtime. The law does not prohibit excessive or compulsory overtime.

The law establishes health and safety standards in certain industries and provides for inspections to monitor and enforce compliance. The law protects workers who file complaints with the labor ministry regarding illegal or hazardous working conditions. If complainants refuse to comply with an order that would place them in danger, and if it is determined upon inspection that hazardous conditions exist in the workplace, the complainants are absolved from blame. A number of highly publicized industrial accidents during the year galvanized the trade union movement into pressuring the government, through street demonstrations, to put into effect a stronger Occupational Safety and Health bill that parliament had already

passed and to which the president had already assented. However, the government was intent on amending the bill and did not submit a revised bill to parliament by year's end.

URUGUAY

The Oriental Republic of Uruguay, with a population of approximately 3.4 million, is a constitutional republic with an elected president and a bicameral legislature. In October 2004 in free and fair, multiparty elections, Tabare Vazquez, leader of the Broad Front or Frente Amplio (FA) coalition, won a 5-year presidential term. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the rights of its citizens. Human rights groups reported fewer complaints of police brutality than in previous years. There were reports of the following human rights problems:

- harsh prison conditions and abuse of prisoners
- violence against women
- discrimination against women and the Afro-Uruguayan minority
- trafficking in persons

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed political killings.

In September a judge dismissed the 2003 aggravated homicide cases filed against Juan Carlos Blanco and Juan Bordaberry in connection with disappearances and apparent deaths of citizens during the military dictatorship of 1973–85. The judge ruled that the statute of limitations on the case had expired, a decision that the prosecutor in the case has appealed. During the year the government increased its efforts to investigate abuse cases perpetrated during the dictatorship.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and unlike last year, there were no reports that government officials employed them. The judicial and parliamentary branches of government are responsible for investigating specific allegations of abuse. Human rights groups reported that police sometimes mistreated detainees. Detainees rarely filed complaints, but the government investigated those complaints that were filed.

Prison and Detention Center Conditions.—Conditions in prisons were poor and deteriorated during the year, as aging facilities were not adequately maintained. There were numerous reports of abuse of prisoners. There were no new developments in the investigation into a claim that a guard at the Libertad prison tortured two prisoners in 2004. Human rights groups and an organization of the families of prisoners alleged that prisoners were routinely beaten during processing and during searches; that food, bedding, and clothing were of poor quality and insufficient quantity; and that access to medical care was poor. A prison director stated that prisoners received a little more than half of the recommended daily food allowance, and prisoners' families had to provide additional food. A September television report showed 15 prisoners held in a cell designed for 2, deteriorating cells, and unsanitary conditions.

Overcrowding continued due to budget problems and strong minimum sentencing guidelines. Through an early release program enacted in October, the prison population decreased slightly during the year to approximately 6,500 prisoners in facilities designed to hold 2,940. The overcrowding caused sanitation, social, and health problems in the major facilities. The Libertad prison, badly damaged in a riot in 2002, held hundreds of prisoners, despite its official status as a condemned building. In August when a violent storm destroyed part of the roof at the prison, officials could not provide adequate alternative shelter. The government continued to hold some prisoners in modified shipping containers; the cells lacked running water and posed sanitation problems.

In addition to overcrowding, the penal system suffered from understaffing and corruption. Authorities did not always separate prisoners according to the severity of their crimes. Narcotics and weapons were smuggled into several facilities, allegedly with official collusion. Prison officials complicated family visitation, in which

family members provide food to supplement a prisoner's diet, and subjected family members to invasive searches, sometimes under unhygienic conditions.

Disease transmission rates and the extent of HIV infection within the inmate population were unknown.

Female prisoners were held in separate facilities from male prisoners except for the Artigas prison, in which women were held in a separate facility within the prison. In general conditions for female prisoners were significantly better than for male prisoners due to the small population and the availability of training and education opportunities.

The National Institute for Adolescents and Children (INAU) operated institutions to hold minor detainees. Juveniles who committed serious crimes were incarcerated in juvenile detention centers, which resemble traditional jails and have cells. Conditions in some of these facilities were as bad as in the adult versions, with some youths permitted to leave their cells only one hour per day.

Judges placed most juvenile offenders in halfway houses which focused on rehabilitation. These facilities provided educational, vocational, and other opportunities, and the juvenile offenders were able to enter and leave without restriction.

Pretrial detainees were not held separately from convicted prisoners.

The government permitted general prison visits by independent human rights observers as well as inmate visitation and visits from foreign diplomats.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions in practice. The law requires the police to have a written warrant issued by a judge before making an arrest (except when the police apprehend the accused during commission of a crime), and the authorities generally respected this provision in practice.

Role of the Police and Security Apparatus.—The Ministry of Interior administers the National Police and the prison system and is responsible for domestic security and public safety. The National Police have a hierarchical structure: the chief of police, director of its intelligence unit, and director of the drug unit report to the vice minister of interior.

An internal police investigative unit receives complaints from any person concerning possible noncriminal police abuse of power, but it was understaffed and only could issue recommendations for disciplinary action. Ministry of Interior authorities responded promptly to accusations of alleged police brutality. Police officers charged with less serious crimes may continue on active duty; those charged with more serious crimes were separated from active service until a court resolves their cases. The law requires a proportional use of force by the police and the use of weapons only as a last resort; this law was respected in practice.

Arrest and Detention.—The law provides the accused with the right to a prompt judicial determination of the legality of detention, which is not always respected, and requires that the detaining authority explain the legal grounds for the detention. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. The law stipulates that confessions obtained by the police before a detainee appears before a judge and attorney (without the police present) are not valid. Further, a judge must investigate any detainee claim of mistreatment.

If the detainee cannot afford a lawyer, the courts appoint a public defender. Judges rarely granted bail for persons accused of crimes that carry at least two years in prison. Between 60 and 65 percent of all persons incarcerated were awaiting a final decision in their case. Because these procedures applied to only the most serious cases, most persons facing charges were not jailed. The length of time an accused spends in jail pending trial varied and contributed to tension in the prisons.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected this provision in practice.

The Supreme Court heads the judiciary system and supervises the work of the lower courts. Criminal trials are held in a court of first instance. Aggrieved parties have a right of appeal to the appellate court but not to the Supreme Court. A parallel military court system operates under a military justice code. Two military justices sit on the Supreme Court but participate only in cases involving the military. Military justice applies to civilians only during a state of war or insurrection.

Trial Procedures.—Trial proceedings usually are based on written arguments to the judge, which normally are not made public. Only the judge, prosecutor, and defense attorney have access to all documents that form part of the written record. Human rights groups reported some difficulty in maintaining confidentiality between client and attorney. Individual judges may hear oral arguments at their option. Most judges choose the written method, a major factor slowing the judicial

process. Defendants enjoy a presumption of innocence. Either the defense attorney or the prosecutor may appeal convictions to a higher court, which may acquit the person of the crime, confirm the conviction, or reduce or increase the sentence.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The Inter American Press Association (IAPA) reported that during the year, authorities prosecuted seven journalists for the content of their articles. The IAPA added that in the past judges had overturned all such cases upon appeal. All journalists remained free during the investigations, and the IAPA provided legal assistance for these cases.

There were no government restrictions on the Internet.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination.—Jewish community leaders reported that government officials and society generally respected members of their community, which numbered approximately 25 thousand. During the year Jewish leaders noted 78 instances of pro-Nazi graffiti around the capital but reported effective cooperation with the police to investigate these incidents. No arrests were made.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice.

The law provides that in extreme cases of national emergency an individual may be given the option to leave the country as an alternative to trial or imprisonment, but this option has not been exercised in at least two decades.

Protection of Refugees.—The law provides for the granting of refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status and grants asylum only for political crimes as set forth in the 1928 Treaty of Havana, the 1889 Treaty of Montevideo, and the 1954 Caracas Convention. During the year the government accepted 121 refugees for resettlement. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In October 2004 Tabare Vazquez, of the FA coalition, won a 5-year presidential term in free and fair elections. The FA won 16 of 30 seats in the Senate and 52 of 99 seats in the Senate. President Vazquez took office on March 1. The election ended the domination of the traditional Blanco and Colorado parties and marked the first time in 50 years that any party won an absolute majority in congress.

Women participated actively in the political process and government, although primarily at lower and middle levels. Four of 30 senators and 11 of 99 deputies were women. Three of the 13 cabinet ministers were women. There was one Afro-Uruguayan among the 99 deputies.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year.

Although there is no general public disclosure law, the government requires all government agencies to produce regular public reports. All agencies complied with these reporting requirements.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, religion, or disability; however, societal discrimination against some groups existed.

Women.—Violence against women continued to be a significant problem. The nongovernmental organization (NGO) National Follow-Up Commission-Women for Democracy, Equality and Citizenship reported that a woman died every nine days as a result of rape or domestic violence. The law provides for sentences of six months to two years in prison for a person found guilty of committing an act of violence or of making continued threats to cause bodily injury to persons related emotionally or legally to the perpetrator; however, most of six thousand domestic cases this year were decided in civil court. Judges in these cases often issued restraining orders which were difficult to enforce. Women filed many more complaints than in previous years, but in many instances, courts were unwilling to apply criminal penalties.

The state-owned telephone company provided a free nationwide hot line answered by trained NGO employees for victims of domestic violence. A government office of assistance for victims of domestic violence trained police to resolve complaints of violence against women. A directorate within the Ministry of Interior operated community assistance centers where abuse victims received information and referrals to government and private organizations for aid. Both the Ministry of Interior and NGOs operated shelters in which abused women and their families could seek temporary refuge.

The law criminalizes rape, including spousal rape. During the first 11 months of the year, police received 962 accusations of rape nationwide. None of these claims involved spousal rape, but police had anecdotal evidence that spousal rape occurred frequently. Authorities believed that victims did not report such incidents because they did not understand their rights and out of a fear of social stigma.

Prostitution is legal for persons over the age of 18, and prostitution was visible in major cities and tourist resorts. There were no known reports of police abuse of individuals engaging in prostitution. Trafficking in women for prostitution was a problem (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace and punishes it by fines or imprisonment; however, women filed few such complaints, a circumstance attributed to a lack of understanding by women of their rights.

In the judicial system women enjoyed the same rights as men, including rights under family and property law. However, they faced discrimination stemming from traditional attitudes and practices, and no discrimination cases have ever been litigated. There was some segregation by gender in the workforce. Women constituted almost one-half the workforce but tended to be concentrated in lower-paying jobs; their salaries averaged two-thirds those of men, continuing a gradual improvement with respect to pay equity. Women often pursued professional careers but were underrepresented in traditionally male-dominated professions, although approximately 60 percent of students at the public university were women. No effective government programs existed to address economic discrimination against women.

Children.—The government was committed to protecting children's rights and welfare, and it regarded the education and health of children as a top priority. The INAU oversees implementation of the government's programs for children. The government provided free compulsory kindergarten, primary, and secondary education, and 95 percent of children completed their primary education. Girls and boys were treated equally. Free education was available through the undergraduate level at the national university.

Health care is free for all citizens.

There is no societal pattern of abuse of children.

Although there were few reliable statistics, polls and arrests indicated that exploitation of children for prostitution was a problem (see section 5, Trafficking).

Trafficking in Persons.—While the law prohibits trafficking in minors, there were some cases involving trafficking to, from, and within the country.

Laws criminalize trafficking of minors and provide penalties ranging from 6 months' to 12 years' imprisonment. No laws specifically prohibit trafficking of adults. In past years suspected traffickers have been prosecuted on charges of corruption, conspiracy, fraud, and other felonies. The Ministry of the Interior has primary responsibility for investigating trafficking cases and maintained a database of all trafficking-related activities. Authorities responded promptly to the one trafficking case that came to light during the year.

The country was a source, destination, and transit point for trafficked persons, and internal trafficking was a problem. Trafficking reportedly occurred primarily to and from Argentina and Brazil across poorly controlled land borders. Based on anecdotal evidence, government and NGO experts estimated that approximately 100 individuals were trafficked in or through the country during the year, but there were no reliable estimates on the number of women engaged in prostitution abroad (generally in Europe, Australia, Argentina, and Brazil) or on the proportion that were induced into prostitution by fraud or were subjected to conditions approaching servitude. Some foreign citizens entered the country to engage in prostitution, but irregular border controls limited the collection of such trafficking statistics. Officials believed that trafficking mostly affected women between the ages of 18 and 24.

In January authorities discovered an alien smuggling ring, which had engineered the illegal entry into the country of more than 100 Chinese citizens, 15 of whom were found to have been subjected to debt bondage. All victims were males between the ages of 20 and 38. Under threat of violence, the victims were forced to work 18 to 20 hours per day on a rice farm while waiting to complete their onward travel to the United States.

According to police sources, commercial sexual exploitation of women and children occurred mostly in the states bordering Brazil. There also was concern about possible prostitution rings exploiting children in Montevideo and the resort areas of Punta del Este and Maldonado, where taxi drivers or hotel staff may be involved. There were isolated reports of prostitution by boys. Anecdotal evidence indicated that, in recent years, commercial sexual exploitation of children through prostitution has increased, and minors often engaged in prostitution alongside adults. Police sources indicated that traffickers often perpetrated other transborder crime such as drug smuggling. Children's rights NGOs received reports that minors resorted to prostitution to survive or to assist their families. INAU estimated that 90 percent of minors engaged in prostitution did so to assist their families who allowed or actively promoted the activity.

On January 30, after discovery of the trafficking of Chinese coerced into debt bondage, the Minister of Interior removed the director of immigration, and the deputy director resigned. An investigation of the Immigration Department led to indictments of nine officials, including the former deputy director.

The Interdepartmental Commission for the Prevention and Protection of Children Against Sexual Exploitation continued to work with INAU to protect victims and witnesses but reported a lack of resources to pursue these objectives.

INAU provided funding for a number of NGOs that have programs to assist homeless children and victims of trafficking. A number of NGOs offered treatment for victims of trafficking, and others provided shelter, food, or education.

There were no known programs to prevent trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities, but the government did not effectively enforce these requirements. Local entities lacked resources to provide accommodations to the disabled. There were no reports of discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

A national disabilities commission oversees implementation of a law on the rights of persons with disabilities. Although the law mandates accessibility for persons with disabilities only to new buildings or public services, the government provided access to a number of existing buildings. The law reserves 4 percent of public sector jobs for persons with disabilities. The country has a generally excellent mental health system and an interest in the rights of persons with mental disabilities.

National/Racial/Ethnic Minorities.—The country's Afro-Uruguayan minority, estimated at nearly 6 percent of the population, continued to face societal discrimination. The NGO Afro Mundo reported that a much larger percentage of Afro-Uruguayans worked as unskilled laborers than members of other groups in society despite equivalent levels of education. Afro-Uruguayans were practically unrepresented in the bureaucratic and academic sectors.

Section 6. Worker Rights

a. The Right of Association.—The law promotes the organization of trade unions and the creation of arbitration bodies, and in December the government passed a law to protect union leaders and negotiators from workplace discrimination. Unions traditionally organized and operated free of government regulation, and during the year unions made inroads into several new professional groups including doctors and the police. Civil servants, employees of state-run enterprises, and private enterprise workers may join unions. Unionization was high in the public sector (more than 80 percent) and low in the private sector (approximately 5 percent). In December an umbrella union federation reported that union membership had increased 75 percent since 2003. Labor unions were independent of political party control but traditionally associated more closely with the Broad Front political coalition.

The Ministry of Labor's Collective Bargaining Division investigates antiunion discrimination claims filed by union members. In August workers alleged that a media company dismissed several workers for their pronation activities. The ministry did not issue an injunction against the dismissals by year's end, but workers continued to pursue the issue through legislative committees.

There are mechanisms for resolving workers' complaints against employers, but unions complained that courts sometimes applied these mechanisms arbitrarily. Unions maintained that employers dismissed organizers for fabricated reasons, thus allowing employers to avoid penalties under the law. The new labor law sought to alleviate this disadvantage.

The law expressly prohibits antiunion discrimination. The law requires employers to reinstate workers fired for union activities and requires employers to pay an indemnity to such workers.

b. The Right to Organize and Bargain Collectively.—The constitution provides workers with the right to strike, and workers exercised this right in practice.

Although the government may legally compel workers to work during a strike if they perform an essential service, which, if interrupted, "could cause a grave prejudice or risk, provoking suffering to part or all of the society," the government did not invoke this clause when negotiating with doctors in September.

Collective bargaining between companies and their unions determines a number of private-sector salaries. The executive branch, acting independently, determines public-sector salaries.

All labor legislation fully covers workers employed in the eight special export zones. There were no unions in these zones, but the government did not prohibit their formation.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law protects children against exploitation in the workplace, including a prohibition of forced or compulsory labor, and the Ministry of Labor and Social Security is responsible for enforcing it. Enforcement was difficult due to a lack of resources and because most child labor was in the informal sector (which accounted for 40 percent of total employment in the country). Some children worked as street vendors in the expanding informal sector or in agricultural activities, areas that generally were regulated less strictly and where pay was lower than in the formal sector.

The law prohibits minors under the age of 15 from working, and this was generally enforced in practice. Minors between the ages of 15 and 18 require government permission to work, and such permission is not granted for dangerous, fatiguing, or night work. All workers under age 18 must undergo a physical examination to identify job-related physical harm. Children between age 15 and 18 may not work more than 6 hours per day within a 36-hour workweek and may not work between 10 p.m. and 6 a.m.

Permission to work is only granted to minors who have completed nine years of compulsory education or who remain enrolled in school and are working to complete compulsory education. Controls over salaries and hours for children are stricter than those for adults. Children over the age of 16 may sue in court for payment of wages, and children have the legal right to dispose of their own income.

INAU implements policies to prevent and regulate child labor and provides training on child labor issues. INAU also works closely with the Ministry of Labor and Social Security to investigate complaints of child labor and with the Ministry of Interior to prosecute cases. INAU has 7 specially trained inspectors to handle an estimated 2 thousand inspections per year; the labor ministry has 109 inspectors to investigate all types of labor complaints. Authorities imposed sanctions in approximately 5 percent of the cases.

A program by INAU and an NGO continued to provide food vouchers of \$58 (1,360 pesos) per month to parents who take their children off the streets and send them to school. This amount approximated what a child might earn working on the street, and the program was considered successful.

e. Acceptable Conditions of Work.—The Ministry of Labor enforces a legislated minimum monthly wage that covers both the public and private sectors. The ministry adjusts the minimum wage whenever it adjusts public sector wages. The minimum wage, set in September at approximately \$109 (2,500 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels; it did not provide a decent standard of living for a worker and family. The vast majority of workers earned more than the minimum wage.

The standard workweek ranged from 44 to 48 hours per week, depending on the industry, and employers were required to give workers a 36-hour block of free time each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours, entitles workers to 20 days of paid vacation after a year of employment, and prohibits compulsory overtime beyond a maximum 50-hour workweek.

The law protects foreign workers and does not discriminate against them, but official protection requires the companies to report the foreign workers as employees. Many native and foreign workers worked informally and thus forfeited certain legal protections.

The Ministry of Labor and Social Security enforces legislation regulating health and safety conditions in a generally effective manner. However, some of the regulations cover urban industrial workers more adequately than rural and agricultural workers. Workers have the right to remove themselves from what they consider hazardous or dangerous conditions without jeopardy to their employment; the government effectively upheld this right, but some workers claimed a subsequent loss of other privileges at work based on their refusal to work in unsafe conditions.

VENEZUELA

Venezuela is a constitutional democracy with a population of approximately 25 million. In 2000 voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair elections. While civilian authorities generally maintained control of the security forces, there were instances in which elements of the security forces acted independently of government authority.

Politicization of the judiciary, restrictions on the media, and harassment of the political opposition continued to characterize the human rights situation during the year. The government used the justice system selectively against the political opposition and implementation of a 2004 media law threatened to limit press freedom. The following human rights problems were reported:

- unlawful killings of criminal suspects
- torture and abuse of detainees
- harsh prison conditions including violence and severe overcrowding
- arbitrary arrests and detentions
- corrupt, inefficient, and highly politicized judicial system characterized by trial delays, impunity, and violations of due process
- dismissal or forced retirements of judges for political reasons
- unlawful taking of private property, including failure to make property restitution in such cases
- illegal wiretapping and searches of private homes and businesses
- official intimidation and attacks on the independent media, the political opposition, labor unions, courts, the Catholic Church, missionary groups, and human rights groups
- widespread corruption at all levels of government
- violence and discrimination against women, abuse of children, discrimination against persons with disabilities, and inadequate protection of the rights of indigenous people
- trafficking in persons
- restrictions on the right of association

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents were not accused of committing any politically motivated killings. Security forces committed unlawful killings, including summary executions of criminal suspects, and mistreated persons in custody resulting in deaths.

In August the attorney general's office released statistics implicating security forces in approximately six thousand killings during the last five years. The survey included all security force-related deaths, whether or not misconduct was alleged. The human rights nongovernmental organization (NGO) Venezuelan Program of Action and Education in Human Rights (PROVEA) documented 162 unlawful killings from October 2004 through September. The human rights NGO Committee for the Families of the Victims of February 1989 (COFAVIC) noted the expansion of police death squad activity linked to police participation in crime.

In January Amnesty International reported that two Aragua State police officers allegedly shot and killed Rigoberto Barrios in Guanayen, Aragua State. Rigoberto Barrios was the third member of the Barrios family allegedly killed by police, despite a 2004 Inter-American Court of Human Rights resolution ordering police protection for the family.

In June security forces killed students Leonardo Gonzalez, Erick Montenegro, and Edgar Quintero and injured three others near a Caracas police checkpoint. Autopsy results showed that two of the students were shot multiple times and that all had shots to the head. The minister of interior told the press he had proof that a patrol was ordered to plant guns where the bodies of the students had fallen. The attorney general's office implicated approximately 30 officers in connection with the killings, and the case was under investigation at year's end.

In December a Caracas judge convicted three former police officers as the material authors of the 2004 killing of prosecutor Danilo Anderson (see section 1.e.).

There were no significant developments in the following cases reported in 2004: the January killings of nine men, allegedly by Lara State police officers; and the March killing of Juan Carlos Zembrano in Lagunillas, Zulia State, allegedly by soldiers.

On August 12, a judge convicted 11 Portuguesa State police officers for murders stemming from their participation in the death squad "Exterminio." Exterminio had been accused of up to 100 killings during 2000–01 in Portuguesa State. Human rights NGOs criticized the decision, which absolved the officers of responsibility in 4 of 7 cases, noting that 17 witnesses were killed during the approximately 5-year trial delay.

Unlike in previous years, there were no reports that security forces killed prisoners; however, deaths in prison resulted from other causes (see section 1.c.).

The case of four National Guard officers charged with killing seven prisoners at the Vista Hermosa prison in 2003 had not gone to trial by year's end.

Unlike in the previous year, no deaths resulted from security force intervention in antigovernment demonstrations.

There was one high-profile case of mistreatment of soldiers resulting in death. On March 7, a fire in a "punishment cell" in Cumana, Sucre State injured two soldiers who later died from burns. Authorities detained one soldier and a civilian court was given jurisdiction of the case. The case was pending trial at year's end.

There were no significant developments in the March 2004 death of army Private Roberto Aguilar, who died on a military installation in Zulia State. The deaths in March 2004 of two soldiers allegedly burned in a punishment cell fire in Fuerte Mara, Zulia State remained under investigation and the prosecution postponed the release its final report. In April prosecutors charged an additional soldier with setting the fire.

Prosecutors rarely brought cases against perpetrators of unlawful killings. When prosecutors investigated, they alleged that unsecured crime scenes, poor investigative techniques, and constantly changing or inexperienced personnel ensured that political and human rights abuse cases were delayed indefinitely or had a preordained result. In August the attorney general's office reported that of the more than 6 thousand police officers implicated in killings during the last 5 years, only 88 were convicted. Sentences frequently were light, and convictions often were overturned on appeal. Members of the security forces charged with or convicted of crimes rarely were imprisoned.

Colombian guerillas or other illegal armed groups reportedly killed four ranchers (see section 1.b.).

The press reported several cases of lynching and attempted lynching of suspected criminals. According to public opinion polls, a significant portion of the population tacitly supported vigilante activity to control crime.

b. Disappearance.—There were no reports of politically motivated disappearances. Human rights groups noted that police officers sometimes disposed of their victims' bodies to avoid investigations. PROVEA recorded 17 reports of disappearances allegedly involving security forces from October 2004 to September. The NGO Red de Apoyo received six reports of disappearances between January and June and noted that this figure exceeded the total number of disappearance reports it had received in 2004. On July 1, human rights NGOs issued a joint statement expressing concern over the increase in disappearances.

In January the press reported that retired Air Force Colonel Silvino Bustillos, a leader of the *Plaza Francia* military dissidents, requested political asylum in Colombia. Bustillos was reported missing in October 2004 after allegedly being followed by agents of the General Directorate for Military Intelligence (DIM).

There were no significant developments in the case of the Investigative and Criminal Police Corps (CICPC) officers investigated for possibly kidnapping three persons in Tachira State in May 2004.

In June the government acknowledged its responsibility for the forced disappearances of Oscar Blanco Romero, Roberto Hernandez Paz, and Jose Rivas Fernandez following the Vargas floods in 1999. The Inter-American Court of Human Rights accepted the acknowledgement and, in November ruled that the country had violated international conventions on torture and forced disappearance. The court ordered the country to pay reparations and open judicial proceedings on the case. Domestic courts had not convicted any of the security forces allegedly involved in the disappearances by year's end.

The Center of Ranching Studies reported that kidnappers targeting ranchers, farmers, and their families claimed at least 30 victims during the year. Kidnappers killed four of these victims, and unidentified assassins killed at least two more farmers (see section 1.a.). The National Cattle Ranchers Federation and press reports attributed the attacks to criminal gangs, Colombian guerrillas, and other illegal armed groups, such as the Bolivarian Liberation Forces. The National Guard's antiextortion and kidnapping unit rescued at least one victim during the year, but many ranchers paid protection money to illegal armed groups rather than rely on government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, NGOs, media, and opposition groups accused security forces of continuing to torture and abuse detainees. Abuse most commonly consisted of beatings during arrest or interrogation, but there also were incidents in which the security forces used near-suffocation and other forms of torture.

PROVEA reported that between October 2004 and September, it received 31 complaints of torture and 503 complaints regarding cruel, inhuman, and degrading treatment. From January to June, Red de Apoyo received 10 complaints from alleged torture victims. There were no arrests associated with these cases.

The government did not authorize independent investigation of torture complaints. Human rights groups continued to question the attorney general's ability to oversee neutral investigations as an active member of the president's political party and a former vice president in the government. Groups also asserted that the Institute of Forensic Medicine, part of the CICPC, was unlikely to be impartial in the examinations of cases that involved torture by CICPC members. Few cases of torture resulted in convictions.

Reports of beatings and other humiliating treatment of suspects during arrests were common and involved various law enforcement agencies.

In February the family of General Felipe Rodriguez, who was arrested and held at Military Intelligence Headquarters, alleged that he was subjected to sensory deprivation and psychological torture. In March authorities transferred Rodriguez to a civilian prison despite a court order that he be transferred to the military prison Ramo Verde. Rodriguez was awaiting trial at year's end.

In June family members of Intelligence and Prevention Services (DISIP) officers being investigated for the escape of an alleged narcotics trafficker claimed that prison authorities beat and tortured the officers in an attempt to secure a confession.

In December a Caracas judge convicted three former police officers allegedly tortured by police in 2004 after the three were detained for killing prosecutor Danilo Anderson. The three received prison sentences ranging from 27 to 30 years.

Prison and Detention Center Conditions.—Prison conditions were harsh due to scarce resources, poorly trained and corrupt prison staff, and violence by guards and inmates. The prison monitoring NGO Venezuelan Prison Observatory (OVP) esti-

mated that existing prisons could hold approximately 60 percent of the estimated 19 thousand prisoners. Severe overcrowding in some prisons and food and water shortages remained problems.

Inmates often had to pay guards and other inmates to obtain necessities such as space in a cell, a bed, and food. Most prisoners obtained food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profited from exploiting and abusing others, particularly since convicted murderers and rapists often were held with pretrial detainees or first-time petty offenders. Trafficking in arms and drugs fueled gang-related violence and extortion. Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings (see sections 1.d. and 1.e.).

The government failed to provide adequate prison security. The National Guard and the Ministry of Interior and Justice have responsibility for exterior and interior security, respectively. The OVP estimated that the interior guard force was 10 percent of the required strength. Violence between prison gangs, including shootouts and riots, was common. From January through September, OVP recorded 304 deaths and 517 injuries in the prisons. Most inmate deaths resulted from prisoner-on-prisoner violence, riots, fires, and from generally unsanitary and unsafe conditions. Prisoners also died as a consequence of poor diet and inadequate medical care.

In January more than 10 thousand prisoners held a national hunger strike to protest prison conditions and the lack of action on their cases.

Security forces and law enforcement authorities often imprisoned minors together with adults, even though separate facilities existed for juveniles. Because reform institutions were filled to capacity, hundreds of children accused of infractions were confined in juvenile detention centers where they were crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors. Pretrial detainees were held with convicted prisoners.

The government permitted prison visits by independent human rights observers, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—While the law prohibits arbitrary arrest and detention, security forces continued to arrest and detain citizens arbitrarily.

Role of the Police and Security Apparatus.—The National Guard, a branch of the military, is largely responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counter narcotics operations, monitoring borders, and providing law enforcement in remote areas. The Ministry of Interior and Justice controls the CICPC, which conducts most criminal investigations, and the DISIP, which collects intelligence and is responsible for investigating cases of corruption, subversion, and arms trafficking. Mayors and governors oversee local and state police forces. Corruption was a major problem among all police forces, whose members were poorly paid and trained. Impunity for corruption, brutality, and other acts of violence were major problems. Some local police forces offered human rights training for their personnel.

Arrest and Detention.—Persons were not always apprehended openly with warrants from judicial authorities. Detainees must be brought before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of the detention. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime, nor for longer than two years, except in certain circumstances, as when the defendant is responsible for the delay in the proceedings.

There was a functioning system of bail, but March penal code reforms eliminated bail for certain crimes (see section 2.a.). Bail also may be denied if the person was apprehended in the act of committing a crime or a judge determines that there is a danger that the accused may flee or impede the investigation. Detainees were provided access to counsel and family members.

PROVEA documented 2,731 arbitrary detentions between October 2004 and September and criticized the security forces for a systematic practice of illegal arrests to combat crime.

OVP reported that as of September, 9,653 persons (51 percent of prisoners) were in pretrial detention. Trials were delayed due to many factors, including the limited power of judges to compel authorities to transport prisoners to court.

e. Denial of Fair Public Trial.—While the law provides for an independent judiciary, it was increasingly less so. The judiciary also was highly inefficient, sometimes corrupt, and subject to political influence, particularly from the attorney general's office, which in turn was pressured by the executive branch.

The judicial sector consists of the Supreme Tribunal of Justice and lower courts, the attorney general's office, and the Ministry of Interior and Justice. The Supreme

Tribunal of Justice is the country's highest court and directly administers the lower courts through the Executive Directorate of the Judiciary.

According to government statistics, provisional and temporary judges constituted an estimated 50 percent of the approximately 1,900 judges. The Supreme Tribunal of Justice's Judicial Committee may hire and fire temporary judges without cause and without explanation, and it did so. Provisional judges legally have the same rights as permanent judges. In May the Supreme Tribunal of Justice's Judicial Committee removed approximately 50 judges (some tenured and some provisional) in several states and Caracas, accusing them of complicity with drug traffickers and other irregularities. In May the Supreme Tribunal of Justice began administering competitive exams to provisional judges as a basis for granting tenure. As of December approximately 480 judges had been granted tenure.

The law provides that the Moral Council (attorney general, human rights ombudsman, and comptroller general) may suspend judges and allows the National Assembly to revoke the appointment of supreme tribunal of justice judges by a simple majority vote. Human Rights Watch (HRW) noted that the law threatens the independence of the judiciary by subjecting it to political control.

Lower court judges oversee pretrial motions, including prosecution and defense motions, prior to criminal cases going to trial judges. Executive judges oversee the application of sentences. Appeals courts, consisting of three-judge panels, review lower court decisions. The attorney general oversees the prosecutors who investigate crimes and bring charges against criminal suspects.

Corruption and susceptibility to political pressure were widespread, particularly from the attorney general's office, which in turn was responding to pressure from the executive branch. In February the Supreme Tribunal of Justice suspended three judges for lifting travel restrictions prohibiting persons investigated for involvement in the attempted removal of President Chavez in 2002. The magistrates who assumed the duties of the suspended judges subsequently reversed the decision to lift the ban. In March the Constitutional Chamber of the Supreme Tribunal of Justice annulled a 2002 supreme tribunal of justice ruling that the events of April 2002 constituted a power vacuum and not a coup. The 2002 ruling had previously prevented the prosecution of four high-ranking military officers accused of military rebellion.

Human rights NGOs and judicial observers criticized the attorney general's office for corruption and the politicization of prosecutors. In June judicial NGO Foro Penal reported that a small group of prosecutors was given the lead on nearly all high-profile prosecutions. In July the Andean Commission of Jurists criticized the attorney general's use of his office to investigate and prosecute opposition figures on political grounds.

On April 14, the Penal Chamber of the Supreme Tribunal of Justice revoked the October 2004 ruling throwing out all criminal charges against National Guard General Carlos Alfonso Martinez and ordered the case reheard. On July 12, an appeals court upheld the original August 2004 conviction of General Martinez to five years probation for violating security zones. The court found Martinez not guilty of instigating rebellion or abandoning his command.

In May the Penal Chamber of the Supreme Tribunal of Justice revoked the October 2004 appeals court ruling dismissing the case against Baruta mayor Henrique Capriles Radonski on charges relating to a violent demonstration in front of the Cuban Embassy in 2002 and ordered the case reheard.

In November the attorney general's office issued arrest warrants for four alleged "intellectual authors" of the November 2004 killing of prosecutor Danilo Anderson. Businessman Nelson Mezerhane and 2 others were held for 46 days in DISIP custody for allegedly masterminding the killing based on the testimony of an alleged former Colombian paramilitary member whose credibility was questioned by various press reports. In December a Caracas judge convicted three former police officers as the material authors of the killing.

In May a judge ruled that General Felipe Rodriguez must stand trial on charges of rebellion and conspiracy for his alleged role in the 2003 bombings of the Spanish and Colombian consulates in Caracas and for his role in a military protest at Altamira (see section 1.c.).

On March 14, prosecutors accused former Miranda State governor and Democratic Coordinating Committee leader Enrique Mendoza of conspiracy and rebellion for his alleged involvement in the closure of a television station in 2002. Mendoza was not subject to any court-ordered restrictions, and the court had yet to rule whether he would stand trial by year's end.

In April prosecutors opened an investigation into Carlos Ayala Corao, President of the Andean Commission of Jurists and former president of the Inter-American Commission on Human Rights, for conspiracy related to his alleged participation in the 2002 coup. Human rights groups criticized the charge as an example of political

prosecution without legal foundation. In October the prosecution did not cite Ayala as one of those formally charged in the case, thereby discontinuing the investigation.

In November the controller general suspended from political activity Leopoldo Lopez, an opposition party mayor of a Caracas municipality, for a period of six years after he leaves office in 2008. The controller alleged that Lopez mishandled municipal funds in 2002. Lopez claimed the move was unconstitutional and part of a strategy by the Chavez government to eliminate the political opposition.

Trial Procedures.—The law provides for provides for open, public, and fair trials with oral proceedings. Defendants are innocent until proven guilty. Public defenders are provided for indigent defendants, but there continued to be a shortage of public defenders. Defendants and plaintiffs have the right of appeal.

Trial delays were common. A professional judge and two “lay judges” try serious cases; a single judge may hear serious cases if requested by the defendant or victim, or if attempts to appoint lay judges have failed. Difficulty in finding persons willing to serve as lay judges also resulted in delays.

The law provides that trials for military personnel charged with human rights abuses be held in civilian rather than military courts; the provision does not apply to cases that predate the 1999 constitution. Executive courts in the military justice system mirrored the civilian courts.

Human rights NGOs continued to express concern that the supreme tribunal of justice’s selection of military judges from a list of candidates provided by the minister of defense linked the careers of military judges to the high command.

Political Prisoners.—Retired Army General Francisco Uson remained imprisoned at the Ramo Verde military prison for “defaming” the army, despite being retired and not subject to military jurisdiction. In January the military court upheld on appeal the October 2004 decision which found Uson guilty of insulting the army and sentenced him to five and one half years in prison. In July the Supreme Tribunal of Justice declared Uson’s attempt to annul the decision inadmissible.

Property Restitution.—On September 29, Supreme Tribunal of Justice President Omar Mora stated that land could be occupied by the state before a judicial review of ownership claims. The government installed state cooperatives on properties still under dispute and on properties whose owners had won court decisions. The Supreme Tribunal of Justice ordered squatters to leave properties, but the government did not enforce its decisions.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Although the law prohibits such actions, security forces continued to infringe on citizens’ privacy rights by searching homes without warrants, for example during anticrime sweeps in poor neighborhoods. There were reports of illegal wiretapping and invasion of privacy by the security forces.

Throughout the country, witnesses to abuses by security forces reported instances in which their family members later were harassed, threatened, or killed (see section 1.a.).

In April President Chavez called on government officials to stop using the “Tascon List,” names and national identification numbers of all persons who had signed the recall petitions which MVR Deputy Luis Tascon had placed on his Web page; however, the Tascon List reportedly was incorporated into a computer program dubbed “Maisanta,” which also included information about whether voters benefited from the government’s missions. The information was used to identify for retaliation those who signed the recall petition; some of those identified lost their government jobs, were denied government services, such as passports and identity cards, or were denied access to employment.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the combination of new laws governing libel and broadcast media content, legal harassment, and physical intimidation resulted in limitations on these freedoms and a climate of self-censorship.

Amendments to the penal code in March make insulting the president punishable by 6 to 30 months in prison, with lesser penalties for insulting lower ranking officials. The defamation law was strengthened such that comments exposing another person to public contempt or hatred are subject to a 1- to 3-year prison sentence and a fine. Inaccurate reporting which disturbs the public peace is punishable with a prison sentence of two to five years. The requirement that media disseminate only “true” information was undefined and open to politically motivated interpretation.

International organizations, such as the Inter-American Press Association (IAPA) and the International Association of Broadcasting (IAB), and domestic journalists charged the government with creating a climate of self-censorship; in March the IAB

denounced to the Inter-American Human Rights Commission the “intimidation, pressure, limitations, and restrictions” placed on the media.

Although print and electronic media were independent, President Chavez repeatedly singled out media owners and editors, charging that the media provoked political unrest and accusing them of treason. The country remained on the International Press Institute’s watch list of countries with a growing tendency toward suppression or restriction of press freedom. Reporters without Borders noted similar concerns.

The law requires that practicing journalists have journalism degrees and be members of the National College of Journalists and prescribes 3- to 6-month jail terms for those who practice journalism illegally. These requirements were waived for foreigners and for opinion columnists.

Assaults against the media declined compared with 2004. From June through August, the National Union of Press Workers recorded 11 physical and verbal attacks against the press. The National Guard, the DIM, the DISIP, and local police also harassed and attacked journalists. Government sympathizers attacked and threatened private media.

On January 14, a mob attacked Punta de Mata radio host Daniel Ortiz Milan and threatened him with revolutionary justice after Ortiz commented in his program on a local election dispute. Police rescued Ortiz from the mob.

On June 13, masked assailants attacked and firebombed the newspaper *Frontera* in Merida, in retaliation for a report on the death of a student during disturbances between pro and antigovernment students at the University of the Andes. The Committee to Protect Journalists reported that the newspaper’s management did not file a police complaint for fear that a government investigation would blame *Frontera*’s report for provoking the attack.

On June 29, four men believed to be DIM agents beat and briefly detained a photographer for the newspaper *El Nuevo Pais* after he attempted to take photographs of a traffic accident involving the head of the government’s land reform office. The photographer reported that authorities seized his camera and removed its memory disc.

On September 19, National Guard officers ransacked the offices of Caracas daily *Ultimas Noticias* and seized photographs.

On November 5, the attorney general’s office accused journalist Patricia Poleo of helping to mastermind the November 2004 killing of prosecutor Danilo Anderson. IAPA expressed concern over the accusation and questioned whether the prosecution had targeted Poleo because her reports often investigated government corruption. In January security forces searched her residence, allegedly looking for evidence in the Anderson case; Poleo accused the attorney general of attempting to hide the truth of Anderson’s killing.

The 2004 assassination of radio personality, opinion columnist, and activist Mauro Marciano Rames in Maturin remained unsolved.

The president preempted broadcasting on the nation’s airwaves to present government programs. Independent media observers criticized the state media for extreme progovernment politicization.

While the law permits the president to suspend telecommunications broadcasts, it was not invoked during the year.

Media analysts, journalists, and other observers alleged that the government used criminal defamation and libel laws to intimidate or harass the media. The attorney general’s office charged *El Universal* with criminal defamation for a July 25 editorial concerning the judicial branch. National and international press organizations denounced the charge, and the Supreme Tribunal of Justice dismissed the case.

In September National Guard officers searched without a warrant the offices of TV Guyana looking for a videotape of a speech by a labor leader supporting recent labor actions in Ciudad Guyana. The station owner ordered his staff not to turn over the tape until a legal order had been presented.

In November police raided the offices of the newspaper *La Razon* searching for the name and address of a columnist published in the paper under a pseudonym.

The civil case continued against newspaper *El Impulso* editor Jose Ocanto, charged with libel for accusing a military officer of corruption in 2004.

Some commercial radio stations complained that broadcasting frequencies for community radios were not allocated in accordance with broadcast regulations. According to the National Venezuelan Radio Broadcasting Chamber, most of these community radio stations neither received broadcasting licenses nor followed regulations and interfered with the broadcasts of licensed stations. The government reportedly funded the community stations, whose broadcasting was progovernment.

The law permits the government to order national broadcasts *cadenas* requiring all broadcast media to preempt scheduled programming and transmit the govern-

ment's entire message. Domestic and international observers to the December national assembly elections questioned the government's use of this provision during the election. According to private media sources, there were approximately 171 *cadenas* from January through September.

In October the National Integrated Service of Customs and Tax Administration of Venezuela (SENIAT) temporarily closed several newspaper and radio stations in the states of Bolivar and Lara. Domestic journalists criticized the move as an attempt to restrict press freedom. On October 12, the press reported that the newspapers *La Nueva Prensa* and *El Expreso* were closed, along with radio stations Radio Alegria and Radio Bolivariana, and then allowed to reopen a few days after the shutdown. On October 25, the proopposition newspaper *El Impulso* was closed for 24 hours and fined. *El Impulso* linked the action to its recent comments to the IAPA criticizing government moves against press freedom. The government responded that SENIAT had intervened for tax enforcement reasons.

The government denied private media equal access to many official events, and, in cases when private media had access to government facilities, they often did not have access to officials and information. For example, only the government radio and television stations were authorized to have reporters at the presidential palace. State-controlled television and radio stations and many foreign news reporters continued to have full access to official events.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice. PROVEA noted that at least 49 injuries resulted from security force interventions in peaceful demonstrations, which marked a significant decrease from the previous year.

Human rights groups criticized the March penal code revision for the strict penalties it imposes on some forms of peaceful demonstration. The new law outlaws pot-banging protests often identified with opponents of the government and punishes street closures with up to 8-year prison terms. In June human rights NGOs submitted a motion to declare the revision unconstitutional, but the Constitutional Chamber of the Supreme Tribunal of Justice had not made a decision by year's end. In November the attorney general's office submitted a separate motion to declare the penal code revision unconstitutional.

Government supporters sometimes disrupted marches and rallies. Supporters and opponents of the government demonstrated in the capital and other cities during the year, and several demonstrations resulted in injuries after the government failed to protect peaceful demonstrators.

On July 12, government supporters repeatedly accosted demonstrators protesting the June 27 police killing of three students (see section 1.a.). Security forces failed to provide protection, and by the time the march reached the National Assembly, fewer than half the original demonstrators remained.

On August 27, government supporters confronted an opposition march, throwing rocks, bottles and other objects at marchers as they made their way to the National Assembly. The metropolitan fire chief reported six injuries, including one hospitalization. Security forces failed to intervene effectively to protect demonstrators.

The case against a National Guard officer arrested in November 2004 for his role in the violent confrontation between opposition demonstrators and National Guard troops in February 2004 had not gone to trial by year's end. In December a court sentenced 3 gunmen accused of killing a demonstrator in August 2004 to 11 years in prison.

Freedom of Association.—While the law provides for freedom of association, the government only partially respected this right. While professional and academic associations indicated they generally operated without interference, they complained that the National Electoral Council (CNE) repeatedly interfered with their attempts to hold internal elections. A 2000 Supreme Tribunal of Justice ruling declared that groups belonging to civil society could not receive money from foreign governments or groups influenced by foreign governments, engage in political activism, or be run by members of the military or religious groups. The government brought charges of conspiracy against the NGO SUMATE based in part on the fact that the organization received financing from abroad (see section 4).

c. Freedom of Religion.—The law provides for freedom of religion, on the condition that its practice does not violate public morality, decency, or the public order, and the government generally respected this right in practice. There were efforts by the government to limit the influence of churches in certain social and political areas.

Foreign missionaries require a special visa to enter the country. For several weeks in August the Directorate of Justice and Religion froze the issuance of religious

visas to missionaries. In October President Chavez ordered the expulsion of the missionary group New Tribes Missions based on government claims of interference and damage to the indigenous population. There were no expulsions as of year's end.

Societal Abuses and Discrimination.—In July members of the Catholic Church hierarchy criticized government actions directed against civil society and the press. In response the president denounced a Catholic cardinal as a devil and a hypocrite and church leaders as “coupsters.”

The small Jewish community was active, and there were few reports of anti-Semitic incidents. However the government and its supporters occasionally demonstrated anti-Semitism. In December the international Jewish rights group, the Simon Wiesenthal Center, denounced comments made by President Chavez as anti-Semitic and demanded an apology.

In October, 219 Mormon missionaries left the country for security reasons and due to difficulties obtaining religious visas. There were no developments in the investigation into explosives detonated outside two Mormon churches in May 2004.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice, although there were numerous reports that persons were denied passports and other official documents by government agencies for having signed the recall referendum. There were also reports that those whose identification numbers appeared on a list of petition signers had bribed to receive their documents.

The law prohibits forced exile, and it was not used.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution.

The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

During 2004 and the beginning of the year, the government implemented the Regularization and Naturalization Decree, which sought to resolve the status of foreigners, primarily Colombians, regarded as “irregular.” Approximately 400 thousand persons were documented, but because the program was carried out primarily in urban centers, it did not reach most dispersed populations of UNHCR concern living in remote border areas. UNHCR assumed that many Colombians chose to be naturalized rather than apply for refugee status.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections held on the basis of universal suffrage.

Elections and Political Participation.—In 2000 voters elected Hugo Chavez as president in elections that observers judged to be generally free and fair. In August 2004 President Chavez defeated a recall referendum organized by opposition groups. While irregularities and a progovernment bias characterized the process leading to the referendum, the Organization of American States (OAS) and the Carter Center stated that the official results were compatible with their own quick count and “reflected the will of the electorate.”

International observers, including the OAS and EU, noted that CNE bias and lack of transparency contributed to record-low voter turnout in the December legislative elections in which pro-Chavez parties won all 167 National Assembly seats. All major opposition parties withdrew from the election before the vote, following the revelation that it was possible to determine how individuals voted. The opposition and international observers criticized the CNE for releasing a limited voter registry and government abuse of state resources for its campaign. While the CNE estimated that abstention reached 75 percent, independent pollsters and opposition and NGO leaders estimated the figure to be as high as 80 percent.

In its preliminary assessment, European Union (EU) observers noted that many citizens lacked confidence in electoral authority independence. The observers' initial conclusions also highlighted voter fears that the secrecy of their vote would be violated as a result of the Maisanta Program. Opposition members noted that the

Maisanta Program and its predecessor, the Tascon List, were strategies to intimidate voters (see section 1.f.).

There were 34 women in the 165-seat assembly, 3 women in the 21-member cabinet, and 9 women among the 32 justices on the Supreme Tribunal of Justice.

Indigenous people traditionally were not integrated fully into the political system due to low voter turnout, geographic isolation, and limited economic and educational opportunities. The constitution reserves three seats in the National Assembly for indigenous people, which were filled in the 2000 election. There were no indigenous members in the cabinet and none of the national assembly vice presidents was an indigenous person.

Government Corruption and Transparency.—There was a perception of widespread corruption at all levels of the government. Journalists reported several cases of apparent corruption implicating high-level government officials, but none were investigated. Officials acknowledged that the National Office of Identification and Immigration, the agency responsible for issuing identity cards and passports, was corrupt.

The law provides for citizens' access to government information and forbids censoring. Human rights groups reported that the government routinely ignored this requirement and did not make information available.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat responsive to their views. Major domestic human rights NGOs that operated independently from the government included SUMATE, COFAVIC, PROVEA, Red de Apoyo, and the Venezuelan Prison Observatory.

In July a Caracas court ruled that SUMATE leaders Maria Corina Machado, Alejandro Plaz, Luis Enrique Palacios, and Ricardo Estevez would stand trial for conspiracy to destroy the country's republican form of government. The charges were based on the group's acceptance of funds from a foreign source. Domestic and international human rights groups criticized the ruling. The trial start was delayed until 2006, and the accused were free pending trial at year's end.

Several human rights NGOs received threats and intimidation by government representatives and supporters.

In January Venezuelan Prison Observatory Director Humberto Prado received telephone threats after he announced his solidarity with prisoners engaged in a national hunger strike (see section 1.c.).

On March 4, the Metropolitan Police withdrew the IACHR-ordered bodyguards it had provided for COFAVIC director Liliana Ortega. The IACHR passed a resolution on June 14 directing the government to reinstate Ortega's police protection. In October police restored Ortega's protection after she defended the IACHR order before a local court.

During the year HRW, the Center for Justice and International Law, and other human rights groups criticized the government's prosecution of well-known human rights lawyer Carlos Ayala Corao on charges of conspiracy (see section 1.e.). The government cited the criticisms as evidence that it was under international attack because of its case against Ayala.

In August a group of prominent domestic human rights NGOs issued a joint statement requesting that the government investigate the threats against human rights workers and adopt measures to guarantee their security.

In November the interior minister responded to criticisms made by Venezuelan Prison Observatory Director Humberto Prado with a personal attack on Prado's character. Minister Chacon told the press that he had concerns about Prado's alleged mistreatment of inmates during his tenure as a prison director in the late 1990s. Prado stated that he was unaware of the complaints and publicly questioned why he had not been previously informed of their existence.

The government cooperated with international governmental organizations and permitted visits by OAS representatives. While the CNE negotiated with the OAS and EU to provide observers for the December 4 National Assembly elections, the government publicly condemned their preliminary observation reports.

Although the ombudsman is responsible for ensuring that citizens' rights are protected in a conflict with the state, human rights NGOs claimed that the ombudsman's office was not independent and rarely acted on public interest cases. PROVEA criticized the ombudsman's office for remaining silent on the unconstitutionality of the March penal code reform.

The national assembly's Sub-Commission on Human Rights played an insignificant role in the national debate on human rights.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination based on race, gender, disability, language, or social status, discrimination against women, persons with disabilities, and indigenous people were problems.

Women.—The law prohibits domestic violence and violators faced penalties of 6 to 18 months in prison. Violence against women continued to be a problem, and women faced substantial institutional and societal prejudice with respect to rape and domestic violence. During the year the Center for Women's Studies reported that in 2004 there were 3,900 cases of domestic violence reported, and that 1 woman in Caracas died every 10 days from domestic violence. The law requires police to report domestic violence and obligates hospital personnel to notify the authorities when they admit patients who are victims of domestic abuse. Police generally were reluctant to intervene to prevent domestic violence, and the courts rarely prosecuted those accused of such abuse. Women generally were unaware of legal remedies and had little access to them. The government sought to combat domestic violence through a public awareness campaign and a national victim assistance hot line.

In December 2004 a judge absolved the alleged torturer of Linda Loaiza, claiming the public ministry had not provided sufficient evidence to prove culpability. The decision was under appeal at year's end.

The law prohibits rape, including spousal rape, but it remained a problem. Rape is punishable with prison terms of 8 to 14 years, although cases often were not reported to the police. An adult man guilty of raping an adult female acquaintance may avoid punishment if he marries the victim before sentencing.

Prostitution is legal. While there was no government information on the extent of prostitution, local antitrafficking NGO Association of Women for Welfare and Mutual Help noted that prostitution was a serious problem, particularly in Caracas and domestic tourist destinations.

Sexual harassment is illegal and punishable with a prison sentence of 6 to 18 months. Sexual harassment was common in the workplace but rarely reported. There were no reported cases of sexual harassment during the year.

Women and men are legally equal in marriage, and the law provides for gender equality in exercising the right to work. The law specifies that employers must not discriminate against women with regard to pay or working conditions. According to the Ministry of Labor and the CTV, these regulations were enforced in the formal sector, although women reportedly earned 30 percent less than men on average. The National Institute for Women, a government agency, worked to protect women's rights.

The National Institute for Women, a government agency, provided approximately 16,412 loans totaling \$8 million (17.2 million bolivars) to women of all ages to establish businesses. Sixty percent of loan recipients were heads of households.

Children.—The government was committed to children's rights and welfare. The law provides for universal, compulsory, and free education up to the university-preparatory level; however, the UN Children's Fund (UNICEF) reported that in 2004 an estimated 45 percent of boys and 35 percent of girls left school before the ninth grade. Many children of African and indigenous descent had no access to the education system.

There were numerous government health care programs provided for boys and girls on the basis of equal access.

Reports of child abuse were rare due to a fear of entanglement with the authorities and ingrained societal attitudes regarding family privacy. According to UNICEF and NGOs working with children and women, child abuse, including incest, often occurred at home. Although the judicial system acted to remove children from abusive households, public facilities for such children were inadequate and had poorly trained staff. The human rights NGO For the Rights of Children and Adolescents (CECODAP) reported that the government created a Ministry of Popular Participation and Social Development to exclusively manage children's issues.

CECODAP estimated that approximately 15 thousand children lived on the street. Authorities in Caracas and several other jurisdictions imposed curfews on unsupervised minors to cope with the phenomenon of street children. Because reform institutions were filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in inadequate juvenile detention centers (see section 1.c.).

Trafficking in Persons.—Although the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country. There

is no implementing law specifically for prosecution of trafficking in persons. Trafficking may be prosecuted under laws against forced disappearance and kidnapping with penalties of 2 to 6 years' imprisonment, and under a law to protect children, which provides for a penalty of 1 to 10 months' income for trafficking in children.

Government efforts to combat trafficking are the responsibility of the public prosecutor's Family Protection Directorate, the National Institutes for Women and Minors, and the Ministry of Interior and Justice's Crime Prevention Unit. Enforcement efforts generally were limited. In June the government arrested one person for trafficking in persons after the Peruvian Embassy in Caracas informed the CICPC that two minors and one adolescent had been lured to the country with false offers of employment. Authorities placed the two minors in juvenile homes, where they were awaiting repatriation at year's end. The whereabouts of the third victim was unknown.

The government assisted with international investigations of trafficking. In June, 13 women reportedly were trafficked to Spain for sexual exploitation. Spanish authorities detained 1 of the 13 women for traveling on false documents and returned her to Venezuela. The whereabouts of the other 12 women were unknown at year's end. One of two suspects in the case was in prison awaiting trial at year's end.

In July authorities assisted in the repatriation of three Colombian victims of trafficking.

There were reports that the country was a source, destination, and transit country for trafficked men, women, and children. An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent passports, identity cards, and birth certificates could be obtained created favorable conditions for trafficking. No overall statistics on trafficking were available from government or NGO sources.

Human rights NGOs received complaints that women were trafficked to Europe for purposes of prostitution. Subgroups particularly at risk included women from poor areas. Undocumented or fraudulently documented Ecuadorian and Chinese nationals transited the country and reportedly were forced to work off the cost of their transportation in conditions of servitude.

Organized criminal groups, possibly including Colombian drug traffickers, Ecuadorian citizens, and Chinese mafia groups, reportedly were involved in trafficking activities.

In January the Ministry of Foreign Affairs hosted the OAS and the International Organization for Migration for antitrafficking workshops to raise public awareness of the problem.

The government provided trafficking victims with psychological and physical examinations. Several NGOs complained that they lacked government support and cooperation to assist victims and prevent future cases of human trafficking.

Efforts to prevent trafficking were inadequate. There were small specially trained CICPC sections devoted to prostitution and the protection of women.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in education, employment, health care, and the provision of other state services. During the year the public defender's office reported that in 2004 it had received 53 petitions on behalf of persons with disabilities related to discrimination in health, social security, education, and workers' rights. Persons with disabilities had minimal access to public transportation, and ramps practically were nonexistent, even in government buildings. The law requires that all newly constructed or renovated public parks and buildings provide access and prohibits discrimination in employment practices and in the provision of public services; however, the government had not made a significant effort to implement the law, inform the public of it, or to combat societal prejudice against persons with disabilities.

There were no reports of discrimination against persons with mental disabilities.

Indigenous People.—Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population suffered from inattention to and violation of their rights. There were approximately 316 thousand indigenous people in 27 ethnic groups, many of whom were isolated from modern civilization and lacked access to basic health and educational facilities. Their communities suffered from high rates of disease. The government included indigenous people in its literacy campaigns, in some cases teaching them to read and write in their own languages as well as in Spanish.

The law creates three seats in the National Assembly for indigenous deputies and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom took account of the interests of indigenous people when making decisions af-

fecting their lands, cultures, traditions, or the allocation of natural resources. Few indigenous people held title to their land, and many did not want to do so because most indigenous groups rejected the concept of individual property. Instead, they called on the government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

Section 6. Worker Rights

a. The Right of Association.—While the law provides that all private and public sector workers (except members of the armed forces) have the right to form and join unions of their choice, the government continued to violate these rights. Approximately 10 to 12 percent of the 12 million-person labor force was unionized.

The CNE has the authority to administer internal elections of labor confederations, which contravenes International Labor Organization (ILO) Conventions 87 and 98. In December 2004 the CNE issued regulations governing internal elections that many labor leaders claimed violated freedom of association. Furthermore, the CNE failed to certify the results of elections held during the year by some 300 unions and federations under these new regulations. Labor leaders complained that the CNE also failed to give permission to hold elections to hundreds of unions and federations.

In January the CNE passed a resolution annulling the CTV's 2001 election results. In addition the government refused to appoint the CTV secretary general as labor's representative at the ILO annual meeting. The ILO called upon the government to recognize the CTV's elected leadership.

The Ministry of Labor continued to deny registration to UNAPETROL, a union composed of oil workers who were later fired for participating in the December 2002 to February 2003 national strike (see section 6.b.).

b. The Right to Organize and Bargain Collectively.—The law provides that all public and private sector workers have the right to conduct their activities without interference and protects collective bargaining. The law stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO continued to object to this provision and requested that the government amend it so that "in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement on behalf of their members."

The government continued to show preference in collective bargaining agreements toward sympathetic unions and fostered the creation of parallel unions. CTV leaders claimed that the Ministry of Labor routinely rejected collective bargaining agreements negotiated by CTV affiliates on administrative grounds. CTV leaders further claimed that, in those sectors or firms where contracts were rejected, ministry officials facilitated the rapid formation of parallel unions, which legally could force a vote among workers over which union would represent them. The CTV also complained that the ministry usually designated the parallel union as the one authorized to negotiate the contract.

Although the law recognizes the right of all public and private sector workers to strike in accordance with conditions established by labor law, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers were not permitted during legal strikes, and the president may order public or private sector strikers back to work and submit their disputes to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population."

By June the government resolved approximately 25 percent of the cases involving 19 thousand PDVSA employees who were fired during and in the aftermath of the December 2002 to February 2003 national strike. The government continued to deny the former workers severance and pension benefits as well as access to company housing, schools, and medical clinics.

In December authorities tried and convicted CTV President Carlos Ortega of civil rebellion and incitement to commit a crime in connection with his role in the December 2002 to February 2003 national strike, despite a June 2004 ILO ruling that the strike was legitimate. Ortega, who was arrested in February after nearly 2 years in exile and hiding, was sentenced to nearly 16 years in prison. The CTV and some human rights activists denounced Ortega's trial for lack of due process and declared Ortega to be a political prisoner. Ortega was expected to appeal the sentence to the Supreme Tribunal of Justice.

Labor law and practice are the same in the sole export processing zone of Punto Fijo, Falcon State, as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor.—While the law prohibits forced or compulsory labor, including by children, there were reports of trafficking in children for employment purposes (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law protects children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforced child labor policies effectively in the formal sector of the economy but less so in the informal sector. The Foundation for Training in the Investigation of Human Resources estimated in 2004 that there were 1.6 million children working in various sectors of the labor market, including 206 thousand involved in prostitution, panhandling, or drug trafficking.

The law permits children between the ages of 12 and 14 to work only if the National Institute for Minors or the Ministry of Labor grants special permission; children between the ages of 14 and 16 may not work without the permission of their legal guardians. Those under 16 years of age may by law work no more than 6 hours per day or 30 hours per week. Minors under the age of 18 may work only between 6 a.m. and 7 p.m. Minors may not work in mines or smelting factories; in occupations that risk life or health or could damage intellectual or moral development; or in public spectacles. The law prohibits inducing the prostitution and corruption of minors. Penalties range from 3 to 18 months in prison and up to 4 years in prison if the minor is younger than 12 years old.

The Ministry of Education, Culture, and Sports ran educational programs to reincorporate school dropouts and adults into the educational system; however, there was no independent accounting of the effectiveness of the programs. The government also provided free adult educational and technical training through the *Barrio Adentro* Mission program.

e. Acceptable Conditions of Work.—Minimum wage rates are adjusted annually by administrative decree, which the legislature may suspend or ratify but may not change. In May the government raised the monthly minimum wage by 26 percent to \$188 (405 thousand bolivars). The national minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Labor enforced minimum wage rates effectively in the formal sector, but approximately 50 percent of the population worked in the informal sector where labor laws and protections generally were not enforced.

The law stipulates that the work week may not exceed 44 hours. Managers are prohibited from obligating employees to work additional time, and workers have the right to weekly time away from work. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time-and-one-half. The ministry effectively enforced these standards in the formal sector.

While the constitution provides for secure, hygienic, and adequate working conditions, authorities have not implemented the Health and Safety Law. The law states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury. Workplaces must maintain “sufficient protection for health and life against sickness and accidents,” and penalties range from one-quarter to twice the minimum monthly salary for first infractions. In practice ministry inspectors seldom closed unsafe job sites. Under the law, workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.